



U.S. Citizenship  
and Immigration  
Services

07

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

**MAR 03 2009**

IN RE:

Petitioner:

Beneficiary:

PETITION:

Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Laos, as the fiancé(e) of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the petition because the petitioner had failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition or that he should be exempted from this in-person meeting requirement. On appeal, the petitioner states, in part, that it was an oversight on his part that he did not submit all of the requested evidence. He submits copies of his passport pages and passport-style photographs of him and the beneficiary.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bona fide intention to marry, *and are legally able and actually willing to conclude a valid marriage* in the United States within a period of ninety days after the alien's arrival . . . . [Emphasis added]

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services (USICS) on March 4, 2008. At the time of filing, the petitioner did not submit sufficient proof that he and the beneficiary had met in person within the two years immediately preceding the filing of the petition.

In a July 16, 2008 Request for Evidence (RFE), the director requested additional evidence, including primary evidence, such as airline ticket stubs and copies of passport pages, to show that he and the beneficiary had met in person within the two years immediately preceding the filing of the petition. The director also requested that the petitioner complete the items that he had previously omitted on the petition. In response, the petitioner completed the omitted items and submitted a letter from the Douglas County Clerk/Comptroller in the State of Nebraska, stating that the petitioner had never applied for a marriage license in Douglas County, Nebraska. The petitioner did not submit the requested evidence pertaining to his in-person meeting with the beneficiary.

In denying the petition, the director noted that the petitioner had not submitted sufficient evidence to establish that he and the beneficiary had met as required under section 214(d) of the Act, or that he should be exempted from this in-person meeting requirement.

The AAO notes that, although in the RFE the director requested primary evidence that the petitioner and the beneficiary had met in person within the two years immediately preceding the filing of the petition, the petitioner did not present such evidence until the appeal. The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. See 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); see also *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, he should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal. Accordingly, the petitioner has not established that he and the beneficiary met in person within the two years immediately preceding the filing of the petition or that he should be exempted from this in-person meeting requirement. Consequently, the appeal will be dismissed.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at [www.uscis.gov](http://www.uscis.gov), or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed. The petition is denied.