

(b)(6)



U.S. Citizenship
and Immigration
Services



Date: **JAN 13 2015** Office: CALIFORNIA SERVICE CENTER FILE: 

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:

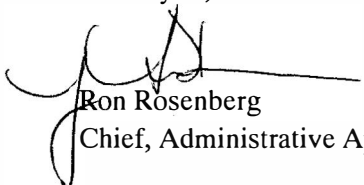
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center (director), denied the nonimmigrant visa petition, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. The motion will be granted, the appeal will remain dismissed and the petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Bosnia, 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 nonimmigrant visa petition because the petitioner failed to establish that she met the beneficiary in person during the two-year period immediately before the filing of the petition or demonstrate that she is eligible for a waiver of the meeting requirement. On appeal, we affirmed the director's decision. On motion, the petitioner submits additional evidence.

Applicable Law

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 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, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states, in pertinent part:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition.

Facts and Procedural History

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on April 25, 2013. Therefore, the petitioner and beneficiary were required to have met between April 25, 2011 and April 25, 2013. On appeal, we found that the petitioner demonstrated that she traveled to [REDACTED], Germany from December 30, 2011 – January 12,

2012 and from December 25 - 31, 2012, but that there was no evidence of the beneficiary's travel to [REDACTED] during the same time period.

Analysis

We review the evidence *de novo*.

On motion, the petitioner submits correspondence, dated August 14, 2014, from the [REDACTED] to the beneficiary confirming his reservation from December 30, 2011 to January 12, 2012, and undated electronic correspondence confirming the same reservation. The dated correspondence confirms a reservation 18 months in the past. The correspondence from the [REDACTED] to the beneficiary is not contemporaneous with the event and appears to have been prepared in response to our decision, dated August 6, 2014.

The petitioner submits correspondence from [REDACTED] listing her contact information at the [REDACTED] in January, 2012. While this evidence indicates that the petitioner may have stayed at the [REDACTED] in January 2012, there is no objective, independent evidence to establish that the beneficiary stayed there during the same time period. The petitioner submits copies of the beneficiary's passport pages, and there are no stamps evidencing travel into or out of Germany during the required period. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The evidence on motion does not establish that the petitioner and the beneficiary met within the two-year requisite time period.

Conclusion

The motion is granted. Upon review, the petitioner and the beneficiary have not met the statutory requirement of a face-to-face meeting within the two years preceding the filing of the petition. The petitioner does not assert that she is eligible for a waiver of the meeting requirement. The director's decision to deny the petition is, therefore, affirmed.

The burden of proof in fiancé(e) visa petition proceedings rests solely with the petitioner. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion is granted. The director's decision, dated December 20, 2013, and our decision, dated August 6, 2014, are affirmed and the petition remains denied.