



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 18710223

Date: NOV. 23, 2021

Motion on Administrative Appeals Office Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks classification of the Beneficiary under section 101(a)(15)(K)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i).

The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e), concluding that the Petitioner did not submit any evidence establishing the Beneficiary's intent to marry within 90 days of admission to the United States. Subsequently, the Petitioner filed an appeal stating that it will submit a brief and/or additional evidence within 30 calendar days. However, we did not receive a brief or additional evidence and we summarily dismissed the Petitioner's appeal under 8 C.F.R. § 103.3(a)(1)(v).

The matter is now before us on a motion to reopen. A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not satisfy these requirements must be dismissed. 8 C.F.R. § 103.5(a)(4). Further, 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen or reconsider to instances where a petitioner has shown "proper cause" for that action. Thus, to merit reopening or reconsideration, a petitioner must not only meet the formal filing requirements at 8 C.F.R. § 103.5(a)(1)(iii) (such as submission of a properly completed and signed Form I-290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion.

On motion, the Petitioner asserts that our summary dismissal that states "to date, we have not received your brief or additional evidence" is erroneous, and includes a copy of its "March 3rd, 2021 submission."¹ We conclude that the evidence does not meet the requirements of a motion to reopen. The Petitioner does not state new facts. Further, the Petitioner does not submit evidence that "March 3rd, 2021 submission" was mailed and received by USCIS; it was not part of USCIS records at the time we summarily dismissed the appeal. Moreover, even if we assume that it had been submitted and received, we need not consider evidence submitted for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988); see also *Matter of Obaigbena*, 19 I&N Dec. 533, 537 (BIA 1988). In a request for evidence, the Director had specifically requested the evidence of intent to marry within 90 days. In other words, the Petitioner was put on notice and was given a reasonable opportunity to

¹ We note that this was not timely.

provide the evidence, but it was not submitted, and the Director properly concluded that the Petitioner did not establish eligibility for the benefit requested.²

ORDER: The motion to reopen is dismissed.

² However, this does not preclude the Petitioner from filing a new Form I-129F with all required documents.