



Do

U.S. Department of Justice
Immigration and Naturalization Service

identifying individuals
prevent identity information
invasion of personal privacy

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted] Office: CALIFORNIA SERVICE CENTER Date:

JAN 10 2003

IN RE: Petitioner [Redacted]
Beneficiary [Redacted]

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

IN BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the United Kingdom who resides in Canada as a landed immigrant, as the fiance(e) of a United States citizen pursuant to section 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 after determining that the petitioner had failed to submit credible documentary evidence to establish that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act.

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

An alien who is the fiancée or fiance 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 fiance(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 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 Fiance(e) (Form I-129F) with the Service on February 26, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 26, 2000 and ended on February 26, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had first met on July 20, 2001 when she was in California for a training session for her Canadian employer. In response to the director's request for additional information and documentary evidence concerning the parties' last meeting, a completed Form G-325A for the petitioner, and evidence of the petitioner's status as a citizen of the United States, the petitioner submitted a completed Form G-325 but failed to submit evidence of his U.S. citizenship or evidence of having

personally met the beneficiary. Accordingly, the director denied the petition for failure to comply with the regulatory requirements.

On appeal, the petitioner submits a certified copy of his birth certificate as evidence of his U.S. citizenship; an undated photograph of him, the beneficiary, and the beneficiary's mother together; and an airline ticket stub indicating that the beneficiary travelled from Canada to California in July 2001.

In the instant case, the record contains sufficient documentary evidence to establish that the petitioner and beneficiary personally met in July 2001, within two years immediately prior to the filing date of the petition. Therefore, the appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

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 met that burden.

ORDER: The decision of the director is withdrawn. The application is approved.