

D-6



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: AUG 23 2004

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for Alien Fiancé(e) Pursuant to Section 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:

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.

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted

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

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, as the fiancée 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 received information from the United States Consulate reporting discrepancies discovered during an in-person interview with the beneficiary. The director revoked approval of the petition after determining that the petitioner had failed to establish a bona fide relationship with the beneficiary as required under section 214(d) of the Act. *Decision of the Director*, dated September 19, 2003.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), 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 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. . . .

In response to the director's Notice of Intent to Deny, the petitioner submitted a letter from himself as well as a letter from his former spouse, who is also the sister of the beneficiary. The director determined that the petitioner's relationship with the beneficiary was based on a single trip to Vietnam wherein the petitioner and the beneficiary met and became engaged during a two-week period. The director found that the petitioner failed to provide adequate documentation of a bona fide relationship between he and the beneficiary.

On appeal, the petitioner states that his relationship with the beneficiary is "true and correct." He reiterates that his former spouse now lives with someone else and states that he is uncertain of the documentation he should provide to prove that he has a valid relationship with the beneficiary. *Form I-290B*, dated October 7, 2003. On appeal, the petitioner fails to provide documentation of a bona fide relationship.

The evidence of record does not overcome the issues articulated by the director and therefore, fails to establish a bona fide relationship between the petitioner and the beneficiary as required under section 214(d) of the Act. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

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

ORDER: The appeal is dismissed.