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U.S. Citizenship
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Services

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DG

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 28 2005

WAC 04 229 54186

IN RE:

Petitioner:
Beneficiary

[Redacted]

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:

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

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 sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Mexico, as the fiancé 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 after determining that the petitioner had not offered documentation evidencing that she and the beneficiary had personally met within two years before the date of filing the petition, as required by § 214(d) of the Act.

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. . . .

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services (CIS) on August 17, 2004; therefore, the petitioner and the beneficiary were required to have met during the period that began on August 17, 2002 and ended on August 17, 2004. In response to the director's request for evidence and additional information, the petitioner submitted three photographs of herself with the beneficiary.

On appeal, the petitioner states that the above-mentioned photographs are dated, and that they were taken one and a half years prior to her December 9, 2004 appeal. The AAO notes that one of the photographs showing the petitioner and beneficiary together is dated April 27, 2003, which fell within the relevant two year period. In addition, the petitioner submits medical documentation showing that she was due to give birth on May 6, 2005. The petitioner states that beneficiary is the father of her child.

Given that the petitioner and beneficiary live within driving distance of each other, it is reasonable to conclude that no airline tickets, hotel receipts, or other formal evidence of their meeting exists. The AAO concludes that the evidence on the record establishes compliance with the meeting requirement under § 214(d) of the Act. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained and the application is approved.