



U.S. Citizenship  
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Services

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AUG 10 2007

FILE:

WAC 07 026 52900

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:  
Beneficiary

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, Chief  
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 Australia, as the fiancée 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 established that he and the beneficiary had personally met within two years before the November 6, 2006 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 the and Immigration Services (CIS) on November 6, 2006; therefore, the petitioner and the beneficiary were required to have met during the period that began on November 6, 2004 and ended on November 6, 2006. In her denial of January 11, 2007, the director noted that the evidence included a copy of the petitioner's passport showing an Australian immigration entry stamp dated May 26, 2003 and an Australian birth certificate for the petitioner's and beneficiary's son, dated July 10, 2004. As both of these dates preceeded the pertinent two year period, the director denied the petition.

On appeal, the petitioner submits evidence showing that he and the beneficiary have met personally between November 6, 2004 and November 6, 2006; in fact, the evidence tends to show that the two having been living together in Australia. The petitioner is listed together with the beneficiary on a rental subsidy renewal certificate dated May 29, 2006, on a housing subsidy assessment dated December 3, 2005, on a rental subsidy report dated January 24, 2005, and on several other government and commercial business records. The record also includes an Australian visa approval for the petitioner with validity dates from September 2 to September

10, 2004. The AAO finds that the evidence on appeal establishes compliance with the meeting requirement under § 214(d) of the Act.

The petitioner has submitted sufficient evidence on appeal to overcome the director's decision. Therefore, the appeal will be sustained.

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