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U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

JUN 20 2007

WAC 06 273 51157

IN RE:

Petitioner:

Beneficiary:

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, 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 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 § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K). The petitioner filed the Form I-129F petition for alien fiancée on September 13, 2006, after having personally met the beneficiary in July 2006. The director denied the petition after determining that the petitioner and the beneficiary were already married at the time the petition was filed. On appeal, the petitioner explains that he and the beneficiary participated only in an engagement ceremony in Vietnam, which serves as a customary but not legally recognized marriage in that country. The AAO finds the petitioner's explanation persuasive.

Section 101(a)(15)(K) of the Immigration and Nationality Act (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 his letter dated August 7, 2006, the petitioner stated that he and the beneficiary were married on July 12, 2006; however, they did not obtain a marriage certificate due to lack of time. On appeal, he writes that the ceremony that took place on July 12, 2006 served as a wedding and engagement ceremony for the benefit of the parties' family members in Vietnam. The ceremony did not result in a legal marriage, however, as the couple never registered the marriage. The AAO notes that Vietnamese law requires legal registration of marriages; a traditional ceremony alone will not suffice for legal recognition of the union. Upon review of the record and Vietnamese law, the AAO concludes that the petitioner and beneficiary are not yet legally married. Hence, the beneficiary may be classified as the fiancée of a U.S. citizen pursuant to § 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K).

The petitioner's explanation on appeal overcomes the director's reason for denial. The petitioner has met the burden of establishing the beneficiary's eligibility for the fiancée visa.



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