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U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

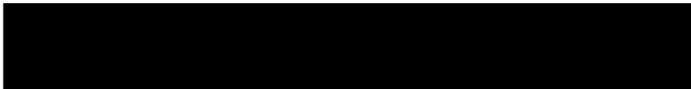
Date: MAY 22 2007

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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 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Uzbekistan, as a 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 denied the petition after determining that the record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated October 31, 2006.

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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

The regulation does not define what constitutes extreme hardship to the petitioner. Therefore, a claim of extreme hardship is judged on a case-by-case basis taking into account the totality of the petitioner's circumstances. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the petitioner's power to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services on July 27, 2006. The petitioner and the beneficiary are therefore required to have met during the period that began on July 27, 2004 and ended on July 27, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had never met within the two-year period immediately preceding the filing of the petition. In response to the request for evidence, the petitioner submitted documentation to establish that he satisfied the meeting requirement with the beneficiary. He submitted copies of flight itineraries (reflects September 2006 travel to Moscow) and photographs of their meeting, and his October 6, 2006 letter indicates that he personally met the beneficiary in Russia on September 23, 2006 and they spent vacation time together in Armenia. The director denied the petition, finding that the submitted evidence did not establish that the petitioner personally met the beneficiary between July 26, 2004 and July 26, 2006, as required by section 214(d) of the Act. The director further stated that no evidence established an exemption from the meeting requirement.

On appeal, the petitioner states that he purchased an airplane ticket to travel to Germany on January 18, 2006 in order to personally meet the beneficiary. However, he was injured on his job on November 1, 2005 and was diagnosed with having spontaneous intracranial hypotension, which required ongoing medical treatment. The petitioner indicates that this created an extreme hardship for him as it made it impossible for him to leave the country and meet the beneficiary in January as planned. The petitioner submits travel information and a letter from [REDACTED], Department of Neurology, Kaiser Permanente Medical Center.

The AAO finds the petitioner's circumstances unfortunate, but not sufficient to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him. The letter from [REDACTED] indicates that the "original work-slip had [the petitioner] off from November 11th through February 21st." The petitioner submitted no evidence, however, to establish that he was unable to travel to meet the beneficiary from February 21, 2006 to July 27, 2006. The petitioner's meeting with the beneficiary, which occurred on September 23, 2006, was not within the two years before the date of filing the petition. No evidence has been offered to establish that meeting would have violated the customs of the beneficiary's culture or social practice. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new I-129F petition on the beneficiary's behalf that complies with the two-year meeting period requirement.

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 not met that burden.

ORDER: The appeal is dismissed.