U.S. Department of Homeland Security
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Washington, DC 20529

D6

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER NOV 2 0 2004
WAC 02 239 54920

IN RE: Petitioner: [redacted]
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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The nonimmigrant visa petition was approved and subsequently revoked 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 India, as the fiancé 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 subsequently 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 March 10, 2004.

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 failed to provide timely response.

On appeal, the petitioner states that she sent proof of her relationship with the beneficiary after the date required by the director because postal service from India requires long periods of time to receive. *Letter from Stacy Datt*, dated March 28, 2004. The record contains two cards sent by the beneficiary to the petitioner; a letter from the petitioner, undated; copies of an airline ticket and boarding passes issued to the petitioner; a copy of the United States passport belonging to the petitioner including a visa for India issued on June 10, 2003; photographs and telephone bills.

The petitioner states that the history of Indians in the Fiji Islands illustrates that marriages between nationals of the two countries are common. *Letter from Stacy Datt*, undated. The petitioner further contends that she

has visited the beneficiary since they became engaged. *Id.* The petitioner submits copies of an airline ticket, boarding passes and her United States passport evidencing travel to India during June 2003.

The evidence of record addresses the issues articulated by the director in the Notice of Intent to Deny and establishes a bona fide relationship between the petitioner and the beneficiary as required under section 214(d) of the Act. Therefore, the appeal will be sustained.

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