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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

D6

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 04 2009

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting 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 Iran, as the fiancé(e) 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 because the petitioner failed to submit evidence that the petitioner and the beneficiary met in person within the two-year period immediately before filing the petition.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

> An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

> [s]hall 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 this 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 may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be 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 power of the petitioner 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 U.S. Citizenship and Immigration Services (USCIS) on August 13, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between August 13, 2006 and August 13, 2008. On the Form I-129F, the petitioner indicated that he and the beneficiary met for the first time in May 2006, and that he visited her again in July 2008, when he proposed to her.

In response to the director's May 30, 2008 Request for Evidence (RFE), the petitioner submitted copies of his passenger receipts from Virgin Atlantic and British Airways, issued on April 11, 2006 and June 2, 2008, respectively. The petitioner also submitted copies of his passport pages, reflecting a stamp by an immigration officer, dated May 21, 2006.

As stated above, the director denied the petition because the petitioner failed to submit evidence that the petitioner and the beneficiary met in person within the two-year period immediately prior to filing the petition.

On appeal, the petitioner states that the director apparently did not review the airline ticket receipt that shows he visited the beneficiary on July 27, 2008.

The law clearly states that the petitioner and the beneficiary must have met in person within the two years before the filing of the petition. The petitioner submitted a copy of his passenger receipt from British Airways, issued on June 2, 2008, reflecting flights from Los Angeles to London on July 5, from London to Iran on July 6, and from Iran to London to Los Angeles on July 27. However, neither of the petitioner's U.S. passports, valid from August 11, 1998 to August 10, 2008, and from March 31, 2008 to March 30, 2018, respectively, contains any entry and/or exit stamps showing that the petitioner actually made the trip in 2008, as reflected on the passenger receipt from British Airways. A passenger receipt that is unaccompanied by actual proof of travel, i.e., copies of ticket stubs, boarding passes and/or pages from the petitioner's passport showing the dates of admission to and departure from Iran, is insufficient to establish that the petitioner traveled to meet the beneficiary during the specified time period. Further, the photographs submitted by the petitioner of his and the beneficiary's alleged 2008 engagement are hand-dated, rather than film-dated, and, therefore, also fail to place the petitioner and the beneficiary together in July 2008. Based upon the evidence in the record, the AAO is unable to determine when the requisite meeting took place. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner, therefore, has not established compliance with Section 214(d) of the Act because he has failed to establish that he and the beneficiary met between the August 13, 2006 and August 13, 2008 timeframe. For these reasons, the petition must be denied.

Beyond the decision of the director, the record does not contain statements or other evidence that establish the intent of the petitioner and the beneficiary to marry within 90 days of the beneficiary's arrival to the United States. For this additional reason, the petition may not be approved. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd.* 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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. The petition is denied.