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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



D6

Date: SEP 09 2011

Office: VERMONT SERVICE CENTER

FILE: 

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Dominican Republic, 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 nonimmigrant visa petition because the petitioner failed to establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) (Form I-129F). On appeal, the petitioner submits a statement and additional evidence.

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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 except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the K-1 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. Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance

with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on September 15, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between September 15, 2008 and September 15, 2010.

The petitioner indicated on the Form I-129F that his fiancée has met and seen him within the two-year period immediately preceding the filing of the petition. The petitioner stated on the Form I-129F that he first met the beneficiary in May 2008 in the Dominican Republic and in May 2009 they developed a relationship. On March 14, 2011, the director issued a Request for Evidence (RFE), informing the petitioner that he must either submit evidence of having met the beneficiary in person during the requisite time period or request a waiver of the meeting requirement. In response to the RFE, the petitioner submitted a joint affidavit from [REDACTED] and [REDACTED] stating that the petitioner met the beneficiary in 2008 in the Dominican Republic and they were in a relationship in 2009. He provided photographs of himself and the beneficiary, which contain date-stamps on the front of the photographs for the month of May 2010. The petitioner also submitted evidence of money transfers to the beneficiary and a copy of the biographic page of the beneficiary's passport.

The director determined that these documents did not establish that the petitioner and the beneficiary met in person during the two-year period immediately preceding the filing of the Form I-129F. On appeal, the petitioner submits a print-out of his flight itinerary as well as his original boarding pass for travel to the Dominican Republic in May 2010. The petitioner resubmits the photographs of himself with the beneficiary with handwritten notes indicating that they were taken at a resort, airport, restaurant, the beneficiary's residence and the petitioner's mother's residence in the Dominican Republic. The petitioner also submits a copy of a receipt, dated May 11, 2010, for a resort in the Dominican Republic where he stayed with the beneficiary.

The petitioner has overcome the basis for denial in the instant petition. The evidence filed on appeal, including the flight itinerary, boarding pass, photographs and hotel receipt, demonstrate that the petitioner met the beneficiary in the Dominican Republic in May 2010, which is within the two-year period immediately preceding the filing of the Form I-129F. Accordingly, the AAO will sustain the petitioner's appeal and approve the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden.

ORDER: The appeal is sustained. The petition is approved.