



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **SEP 22 2006**

IN RE: Petitioner: [Redacted]
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:
[Redacted]

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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Iran, 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 director denied the petition after concluding that the petitioner and the beneficiary were already married when the petition was filed, and thus they did not have the intent to marry as specified by §214(d) of the Act. On appeal, counsel explains that the petitioner and the beneficiary entered into an Iranian Shi'a Muslim temporary marriage contract known as "*sigheh*" which expired prior to the filing date of the Form I-129F Petition for Alien Fiancée. Counsel states that the petitioner and beneficiary were not married as of the date the petition was filed. The AAO concurs with counsel's explanation.

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. . . .

The record contains evidence that the petitioner and beneficiary entered into a temporary marriage contract (*sigheh*) which was valid from June 18, 2005 to August 19, 2005. The petitioner filed the form I-129F on October 27, 2005, after the expiration of the *sigheh* contract. The AAO notes that *sigheh* is not a marriage as contemplated by any U.S. law, but is a contract that temporarily legalizes an otherwise illegal relationship between a man and an unmarried woman. The contract may last for periods as short as a few hours, and no divorce is required, because the expiration date forms part of the contract. Hence, the AAO agrees that the petitioner and beneficiary were not married at the time the former filed the instant petition, and as the director found no other impediment to approving the petition, the AAO concludes that the petition may be approved.

The petitioner has met his burden of proving eligibility in this case.

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