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U.S. Citizenship
and Immigration
Services

DE



FILE:

Office: VERMONT SERVICE CENTER

Date: **FEB 27 2009**

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:

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).

hn F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont 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 Morocco, 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 had failed to: (1) establish that she and the beneficiary met in person within the two years immediately preceding the filing of the petition; and (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for her. On appeal, the petitioner provides a statement and copies of the following documents: the funeral announcement of the petitioner's older sister; an Explanation of Benefits from Blue Cross and Blue Shield addressed to the petitioner, reflecting charges for the petitioner's medical care from July 10 - 18, 2008; appointment notices addressed to the petitioner from the North Florida/South Georgia Veterans Health System; and an enrollment verification addressed to the petitioner from Saint Leo University at Saint Leo, Florida, reflecting the petitioner's 2008 enrollment in the Master of Science in Criminal Justice academic program.

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 April 7, 2008. Therefore, the petitioner and beneficiary were required to have met between April 7, 2006 and April 7, 2008.

On July 21, 2008, the director issued a Notice of Intent to Deny (NOID) the petition, finding that the petitioner had not completed all of the fields on the petition, had not submitted an acceptable passport-style photograph of herself, and had not demonstrated that she and the beneficiary had met in-person within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, or established that such a meeting would have been a hardship for her.

As noted above, the director denied the petition because the petitioner had failed to: (1) establish that she and the beneficiary met in person within the two years immediately preceding the filing of the petition; and (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for her.

On appeal, the petitioner states that an in-person meeting with the beneficiary in Casablanca, Morocco would be a medical hardship for her, as she has been in treatment with the Veterans Health System since October 2004 for "unspecific" migraine headaches. She also states that she suffers from irritable bowel syndrome, which is caused by stress. She states further that her oldest sister recently died and various other family members suffer from illnesses. She also states that her primary care provider does not recommend that she travel.

The evidence regarding the petitioner's medical issues and how they impacted on the petitioner's ability to travel lacks detail and substance. The petitioner states that her primary care provider does not recommend that she travel, but she has not submitted a letter from her primary care provider that provides a comprehensive description of the petitioner's medical issues or explains how the petitioner's medical conditions impact on her daily living or ability to travel. Without more details to substantiate the petitioner's claims that she could not travel during the requisite period because of health issues, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between her and the beneficiary. Accordingly, the appeal is dismissed. The petition must be denied.

The denial of the petition is without prejudice to the filing of a new I-129F Petition on the beneficiary's behalf. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that she 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 she may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to her 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.