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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D/L

[Redacted]

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

JAN 14 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).

A handwritten signature in black ink, appearing to read "John F. Grissom".

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 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 he 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 him. On appeal, the petitioner provides a statement and copies of documents already included in the record.

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 October 22, 2007. Therefore, the petitioner and beneficiary were required to have met between October 22, 2005 and October 22, 2007.

In denying the petition, the director noted that the petitioner had presented an April 29, 2008 letter from his physician, [REDACTED] which stated that the petitioner was under his care for “stroke, congestive heart failure, gout, high BP and gait disturbance.” The director stated that the letter from [REDACTED] did not indicate, however, that the petitioner was unable to travel.

On appeal, the petitioner states that he can barely dress and groom himself. He describes his current medical state as follows: “ I can stand on my own for about 30 seconds then I get dizzy to the point I would fall wick [sic] left me constantly with a walker. . . . I can not do normal day to day obsticals [sic] such as shower.” The petitioner also submits a copy of a note that [REDACTED] had written on a prescription pad on January 4, 2008. The note states, “Above pt is under my care for hemorrhagic stroke, congestive heart failure, high blood pressure and gout. Pt. still with unsteady gait, need assistance with ambulation and support for his daily living needs.”

The evidence regarding the petitioner’s medical issues and how they impacted on the petitioner’s ability to travel lacks detail and substance. The record contains a statement from the petitioner which states, “I was prepared to travel and meet with my fiancé(e) and to get married. But, unfortunately, I had a STROKE on 10/03/2006 and was admitted to the hospital – this was the main reason for not traveling.” The petitioner has not presented any evidence regarding when his stroke actually occurred. [REDACTED] does not provide any comprehensive description of the petitioner’s medical issues or explain how the petitioner’s medical conditions impact on his daily living or ability to travel. The AAO notes further that, assuming that the petitioner’s stroke did occur in October 2006, the requisite period for meeting the beneficiary would have been between October 22, 2005 and October 22, 2007. The petitioner has not explained why he did not meet the beneficiary prior to October 2006. Without more details to substantiate the petitioner’s claims that he 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 him 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 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 he may 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.