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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**

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **NOV 18 2009**

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)

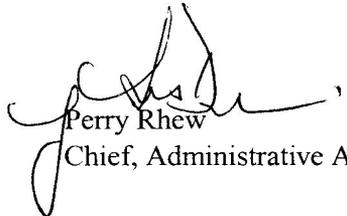
ON BEHALF OF PETITIONER:

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).


Perry Rhew
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 U.S. citizen who seeks to classify the beneficiary, a native and citizen of Pakistan, 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 record contains no evidence that the petitioner and the beneficiary have personally met within the last two years or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner provides a letter and additional evidence, including a letter from [REDACTED]

Section 101(a)(15)(K)(i) 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 admission

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 July 28, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between July 28, 2006 and July 28, 2008.

When she filed the petition, the petitioner responded “No” to question #18 on the I-129F Petition that asks whether she and the beneficiary had met in person within the two years before the filing of the petition. The petitioner indicated that she and the beneficiary had met on the Internet on February 18, 2007, and that in January 2008, they “realized that [they] had fallen into love with one another and wanted to be married.” The petitioner also stated that because of medical reasons, she was unable to travel. As supporting documentation, the petitioner submitted a letter from [REDACTED], dated July 10, 2008, stating that the petitioner was evaluated on July 8, 2008 for “Pulmonary Hypertension” and was unable to travel due to her “chronic medical conditions.” The petitioner also submitted copies of numerous email messages, including one sent by the petitioner to the U.S. Embassy in Abu Dhabi on May 6, 2008, explaining that the beneficiary was recently denied a visitor’s visa at the U.S. Embassy in Pakistan, and that, if possible, she and the beneficiary would like to get married in Dubai.

The director denied the petition because the petitioner failed to establish that she and the beneficiary had met, as required under section 214(d) of the Act, and that she qualified for an exemption from this meeting requirement, pursuant to 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner states, in part, that USCIS has previously approved similar petitions that entail extreme hardship. The petitioner also states that travel to Pakistan is dangerous, according to the State Department’s website. The petitioner submits supporting documentation, including a timeline, indicating that she met the beneficiary in the summer of 2007, and that she became chronically ill in November 2007. The petitioner also submits a letter from [REDACTED] dated June 12, 2009, who states that the petitioner suffers from “Pulmonary Hypertension among other chronic illnesses.” [REDACTED] also provides “a random collection of medical records [covering from the petitioner’s initial consultation on November 28, 2006 to her latest evaluation on June 9, 2009] in order to provide comprehensive insight into her condition and medical history.”

[REDACTED] concludes as follows:

I am hopeful that [the petitioner’s] cardiovascular function can be restored enough to allow her to participate in normal physical activities, at least to a limited degree.

At this time, considering her health issues, I can not recommend long distance travel for this patient.

At the outset, the petitioner’s claim on her timeline that she and the beneficiary met in the summer of 2007 conflicts with her claim at the time of filing, that she and the beneficiary met online on February 18, 2007. The record contains no explanation for this inconsistency. Doubt cast on any aspect of the petitioner’s proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or

reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

In addition, while we do not question the expertise of [REDACTED] the petitioner states on the timeline that she became chronically ill in November 2007, which indicates that the petitioner met the beneficiary several months prior to the onset of her chronic illness. It is noted that section 214(d) of the Act does not require that the meeting of the petitioner and the beneficiary be of any specified duration, only that it occur within two years of the filing date of the petition. As such, the petitioner has not established that she and the beneficiary could not have met in person prior to her becoming chronically ill. Moreover, the petitioner indicated in her May 6, 2008 email to the U.S. Embassy in Abu Dhabi, which, according to her timeline, is after she became chronically ill, that she and the beneficiary wanted to travel to Dubai to get married. Again, the record contains no explanation for this inconsistency. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The AAO also acknowledges the petitioner's safety concerns regarding travel to Pakistan. Section 214(d) of the Act, however, does not require that the petitioner travel to the beneficiary's home country for the requisite meeting. Without more details to substantiate the petitioner's claims that she could not travel during the requisite period because of hardship 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 AAO acknowledges the petitioner's assertion that USCIS approved other, similar petitions. The director's decision does not indicate whether she reviewed the prior approval of the other nonimmigrant petitions. If the previous nonimmigrant petitions were approved based on the same unsupported and contradictory assertions that are contained in the current record, the approval would constitute material and gross error on the part of the director. The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petition on behalf of the petitioner's sister, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, she should ensure that she has documentary evidence of having met the beneficiary in person within the two years before the filing of the petition, or sufficient evidence to establish that the requirement should be waived. 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.