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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

b6

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 16 2010

IN RE: Petitioner: [redacted]
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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. 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 Mexico, 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 personally met within the two-year period immediately preceding the filing of the petition. On appeal, the petitioner states, in part, that she has gathered more evidence to show that she visited the beneficiary within the required timeframe. As supporting documentation, the petitioner submits the following: copies of two receipts, dated June 13, 2006 and March 13, 2008, respectively, from stores in Mexico, on which the petitioner's name is handwritten; phone cards; a letter from , dated February 11, 2009; and photographs of the petitioner and the beneficiary.

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:

> [s]hall 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 . . . .

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 USCIS on August 13, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between August 13, 2006 and August 13, 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-year period immediately preceding the filing of the petition. The petitioner stated that she met the beneficiary in June of 2006, when she went to Mexico with her friend, who is the beneficiary's cousin. The petitioner also states that since she met the beneficiary, they "have been in contact and had an ongoing relationship."

On December 22, 2008, the director issued an RFE, requesting that the petitioner submit evidence that she and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition or, in the alternative, evidence to establish why the requirement of an in-person meeting should be waived.

In her January 12, 2009 response to the director's RFE, the petitioner submitted four photographs of herself with the beneficiary, which were all dated outside the required timeframe.

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.

On appeal, the petitioner submits additional evidence including: copies of two receipts, dated June 13, 2006 and March 13, 2008, respectively, from stores in Mexico, on which the petitioner's name is handwritten; phone cards; a letter from , dated February 11, 2009; and photographs of the petitioner and the beneficiary.

The law clearly states that the petitioner and the beneficiary must have met in person within the two-year period immediately preceding the filing of the petition. In this case, the petitioner and the beneficiary were required to have met in person between August 13, 2006 and August 13, 2008. As discussed above, the petitioner's supporting documentation submitted on appeal includes: copies of two receipts, dated June 13, 2006 and March 13, 2008, respectively, from stores in Mexico, on which the petitioner's name is handwritten; phone cards; a letter from dated February 11, 2009; and photographs of the petitioner and the beneficiary. Upon review of the record, the petitioner's evidence is insufficient to establish that the petitioner personally met the beneficiary during the specified time period. For example, the petitioner's name is hand-written on the store receipts and thus they fail to place the petitioner and the beneficiary together in the required time period. Moreover, one of the receipts is dated June 6, 2006, which is outside the required time period. Neither do the phone cards place the petitioner and the beneficiary together in the required time period. Further, the

photographs of the petitioner and the beneficiary are not film-dated, and, therefore, also fail to place the petitioner and the beneficiary together in the required time period. The AAO acknowledges assertion in his February 11, 2009 letter that the petitioner traveled with him to Mexico in 2007 and 2008. , however, provides no evidence in support of his assertion. Based upon the evidence in the record, the AAO is unable to determine when the requisite meeting took place. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner, therefore, has not established compliance with Section 214(d) of the Act because she has failed to establish that she and the beneficiary met between the August 13, 2006 and August 13, 2008 timeframe. For these reasons, the petition must be denied.

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 immediately preceding 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.