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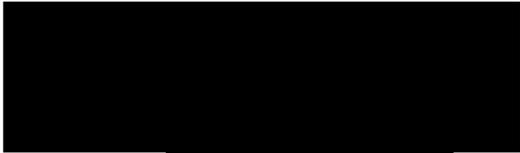
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: MAR 08 2010

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:



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 sustained. The petition will be approved.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Iran, 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 or that the petitioner qualified for a waiver of that requirement. On appeal, counsel states, in part, that the petitioner has submitted adequate evidence that he met the beneficiary in Iran in July of 2008, when he met and became engaged to the beneficiary. To explain why the petitioner submitted no photographs of himself with the beneficiary, counsel states that the petitioner and the beneficiary were not photographed together out of respect for the beneficiary's parents. Counsel states: "In Iran, it is not considered culturally appropriate for a single woman to be photographed with a man." Counsel also states that, in her decision, the director relied on *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972), which "is entirely inapposite to the I-129F fiancé petition at hand." As supporting documentation, counsel submits the following: letters from the beneficiary and her father, both dated April 11, 2009; a confirmation of premarital counseling and medical examination for the petitioner and the beneficiary, dated August 4, 2008, from the Shahid Soltani Health Center of the University of Medical Sciences and Health Services of Fars Province; a copy of the *Matter of Treasure Craft of California* decision; a copy of Memorandum from Robert C. Divine, Acting Deputy Director, U.S. Citizenship and Immigration Services, *Matter of Chawathe* (January 11, 2006), regarding the standard of proof in administrative immigration proceedings; and copies of previously submitted documentation.

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 September 15, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between September 15, 2006 and September 15, 2008.

When he filed the petition, the petitioner responded "Yes" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition. The petitioner stated that he traveled to Iran in July of 2008 to visit his family, whereupon he was introduced to the beneficiary. The petitioner stated further that, after spending some time together, he and the beneficiary decided to marry.

On January 16, 2009, the director issued an RFE, requesting that the petitioner submit additional information, including, inter alia, evidence that he 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 his February 9, 2009 response to the director's RFE, the petitioner submitted additional evidence, including copies of pages from his U.S. and Iranian passports and an itinerary reflecting a trip to Iran in July of 2008.

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 or that the petitioner qualified for a waiver of that requirement.

On appeal, counsel states, in part, that the petitioner has submitted adequate evidence that he traveled to Iran in July of 2008, during which time he met and became engaged to the beneficiary. Counsel's supporting documentation includes: letters from the beneficiary and her father pertaining to their cultural practice of taking photographs of unmarried daughters; and a confirmation of premarital counseling and medical examination for the petitioner and the beneficiary, dated August 4, 2008, from

the Shahid Soltani Health Center of the University of Medical Sciences and Health Services of Fars Province.

In this case, the petitioner and the beneficiary were required to have met in person between September 15, 2006 and September 15, 2008. The petitioner has submitted evidence of traveling to Iran in July of 2008, which falls within the two-year period immediately preceding the filing of the petition. The petitioner has also submitted a confirmation of premarital counseling and medical examination for the petitioner and the beneficiary, dated August 4, 2008, from the Shahid Soltani Health Center of the University of Medical Sciences and Health Services of Fars Province. Taking into account the totality of the evidence, the AAO finds that the petitioner has established that he and the beneficiary met between the September 15, 2006 and September 15, 2008 timeframe.

A review of the record finds that the petitioner has submitted all of the required documentation, as described in the instructions to the I-129F petition. Thus, the AAO finds the petitioner to have overcome the basis for the director's denial of the instant petition. Accordingly, the AAO will sustain the petitioner's appeal and approve the petition.

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 met that burden.

ORDER: The appeal is sustained. The petition is approved.