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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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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 18 2010

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)

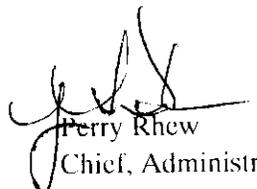
ON BEHALF OF PETITIONER:
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Jerry 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 naturalized 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 nonimmigrant visa petition because the record contains insufficient evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition. The director also found that the petitioner had not submitted the requested divorce decree signed by a judge or magistrate, terminating the marriage of the beneficiary and [REDACTED]

[REDACTED] On appeal, counsel submits the following items: a marriage certificate for the beneficiary and [REDACTED] which references their August 8, 2003 divorce; a declaration from [REDACTED]; and photocopies of two photographs dated November 3, 2009.

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 U.S. Citizenship and Immigration Services (USCIS) on December 7, 2009. Therefore, the petitioner and the beneficiary were required to have met in person between December 7, 2007 and December 7, 2009.

When he filed the petition, the petitioner left blank 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. It also was not clear from the petitioner's September 21, 2009 statement as to whether he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition.

On May 3, 2010, the director issued a request for evidence (RFE), requesting that the petitioner submit the following items: evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition; and a legible copy of the divorce decree signed by a judge or magistrate, terminating the marriage of the beneficiary and [REDACTED]

In his response to the director's RFE, the petitioner submitted passenger receipts and an itinerary invoice for travel from Los Angeles to Morocco in September 2009, listing his and his child's names. The petitioner also submitted a letter dated May 25, 2010, indicating that he was still awaiting the receipt of an original divorce decree from the beneficiary.

The director denied the nonimmigrant visa petition because the petitioner submitted insufficient evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition, and he had not submitted the requested divorce decree.

On appeal, counsel submits a marriage certificate for the beneficiary and [REDACTED] which references their August 8, 2003 divorce, a declaration from [REDACTED] and photocopies of two photographs dated November 3, 2009. The petition may not be approved, however, as the petitioner has not submitted the requested divorce decree that has been signed by a judge or magistrate, terminating the marriage of the beneficiary and [REDACTED]. In addition, the record contains unexplained inconsistencies pertaining to the beneficiary's marriage to [REDACTED]. Specifically, on the Form I-130, Petition for Alien Relative, filed by the petitioner on behalf of the beneficiary on September 5, 2002, the petitioner specified "None" under "Names of Prior Husbands/Wives" for the beneficiary. Also, the marriage license and certificate for the March 21, 2002 marriage of the petitioner and the beneficiary reflects that the beneficiary had no previous marriages. The beneficiary also specified "None" under "Former Husbands or Wives" on her Form G-325A, Biographic Information, which she signed on September 2, 2002. Again, the record contains no explanation for these inconsistencies. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not

suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). 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. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). In addition, while the AAO acknowledges the photocopies of the dated photographs, the affidavit from [REDACTED] and the previously submitted itinerary and ticket receipts, these items are not corroborated by copies of the petitioner's passport pages containing the related entry and exit stamps. Thus, the petitioner has submitted insufficient evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition. In sum, the petitioner has submitted insufficient evidence to overcome the objections of the director. Accordingly, the appeal is dismissed. The petition must be denied.

Beyond the decision of the director, the record does not contain original statements from the petitioner and the beneficiary or other evidence that establishes their mutual intent to marry within 90 days of the beneficiary's entry into the United States in K-1 status. For this additional reason, the petition may not be approved.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he 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.