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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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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **OCT 26 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:

SELF-REPRESENTED

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.

Thank you,

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 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 contained insufficient 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 submits a personal affidavit and additional evidence, including: affidavits from the petitioner's family and friends; a receipt from [REDACTED] containing the beneficiary's name and signature; and dated photographs.

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 May 3, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between May 3, 2008 and May 3, 2010.

When she filed the petition, the petitioner responded "Yes" 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 and the beneficiary met through mutual friends at a party.

On July 12, 2010, the director issued a request for evidence (RFE), requesting that the petitioner submit evidence that she and the beneficiary personally met 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 response to the director's RFE, the petitioner submitted a letter stating that she and the beneficiary met at a party on July 4, 2008, and that they dated for four months before he returned to Mexico. The petitioner also submitted evidence of her trip to Mexico in June 2010 to meet his family.

The director denied the nonimmigrant visa petition because the petitioner submitted insufficient evidence that she and the beneficiary personally met within the two-year period immediately preceding the filing of the petition, as the petitioner's June 2010 visit was after the requisite two-year period.

On appeal, the petitioner states that she and the beneficiary met at a party on July 4, 2008, and that the beneficiary purchased her engagement ring at [REDACTED] on [REDACTED]. As evidence, she submits a receipt from [REDACTED] dated [REDACTED] containing the beneficiary's name and signature. It is noted that the record also contains evidence of the petitioner having purchased wedding bands at the same store on [REDACTED]. The petitioner also submits numerous affidavits from family and friends attesting to having met the beneficiary during the time period between July and November 2008. The evidence submitted on appeal also includes three photographs of the petitioner and the beneficiary, one of which is dated November 25, 2008 and the other two November 28, 2008. A review of the record in its entirety finds that the petitioner has submitted sufficient evidence to demonstrate that she and the beneficiary met in person during the requisite two-year period between May 3, 2008 and May 3, 2010. In view of the foregoing, 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.

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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.