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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

MAR 21 2011

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:

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.

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, with a fee of \$630. 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,

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 submits a statement and copies of documentation previously submitted.

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

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with USCIS on March 22, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between March 22, 2008 and March 22, 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, in part, that her family and the beneficiary's family had been neighbors for years.

On May 20, 2010, 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 that she qualified for a waiver of that requirement.

In her June 18, 2010 response to the director's RFE, the petitioner submitted additional evidence, including: a doctor's letter; birth certificates for her three children born in 2004, 2005, and 2007, respectively; and photographs.

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 states, in part, that she and the beneficiary have three children and thus they have established that they know each other.

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 March 22, 2008 and March 22, 2010. Information on the petition indicates that the petitioner lives in Calexico, California, and the beneficiary lives in the adjacent city of Mexicali, Baja California, Mexico. While the record indicates that the petitioner and the beneficiary live in adjacent border cities, and the petitioner asserts that she and the beneficiary have three children together (the birth certificates for two of the children do not list a father's name), the petitioner has not provided any evidence that they have met in person within the two-year period immediately preceding the filing of the petition. As stated by the director, the photographs are not film-dated, and the doctor's letter indicates only that he medically assisted the petitioner for the past five years and that the beneficiary paid the bills. Thus, the petitioner has not submitted sufficient evidence, such as film-dated photographs, to corroborate her assertion that she and the beneficiary met in person within the two-year period immediately preceding the filing of the petition. In sum, the evidence of record does not establish that the petitioner and the beneficiary met as required. 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 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.