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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

Date:

IN RE:

Petitioner:

Beneficiary:



MAR 21 2011

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 the Philippines, 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 petitioner failed to establish that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition. On appeal, the petitioner submits a statement.

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 4, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between March 4, 2008 and March 4, 2010.

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 met the beneficiary online and went to meet her in March 2009.

On May 10, 2010, the director issued a Request for Evidence (RFE), requesting that the petitioner submit evidence that he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition or that he qualified for a waiver of that requirement.

In response to the director's RFE, the petitioner submitted: a four-page "interim invoice" dated March 17, 2009, from a hotel in Abu Dhabi, United Arab Emirates, listing his name and reflecting arrival and departure dates of March 7, 2009 and March 18, 2009, respectively; and copies of his U.S. passport pages showing corresponding entry and exit stamps.

On June 1, 2010, the director issued a second RFE, requesting that the petitioner submit an explanation of the circumstances of his in-person meeting with the beneficiary, and copies of all the pages of the beneficiary's passport.

In response to the director's second RFE, the petitioner submitted a copy of the online travel itinerary for his March 2009 trip to Abu Dhabi, United Arab Emirates, and copies of the documentation previously submitted.

The director denied the petition because the petitioner failed to establish that he and the beneficiary had met, as required under section 214(d) of the Act.

On appeal, the petitioner states, in part, that he and the beneficiary met in Abu Dhabi, United Arab Emirates, in March 2009, where the beneficiary has worked since March 2003.

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 4, 2008 and March 4, 2010. The petitioner asserts that he and the beneficiary met in Abu Dhabi, United Arab Emirates, in March 2009, where the beneficiary has worked since March 2003. As evidence of his trip to Abu Dhabi, the petitioner submitted a hotel invoice, a travel itinerary, photographs of himself with the beneficiary that are not film-dated, and copies of the pages from his U.S. passport. The petitioner, however, did not submit all of the evidence requested by the director, namely copies of all the pages of the beneficiary's passport, that is, the passport of [REDACTED]. Instead, the petitioner submitted a second copy of his own passport. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). As stated by the director, the evidence is insufficient to establish that the petitioner and the beneficiary were in the same place at the same time. In view of the foregoing, 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.