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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: NEBRASKA SERVICE CENTER Date: FEB 05 2003
(LIN 02 146 54569 relates)

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

IN BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the petition after determining that the petitioner had failed to submit evidence to establish that she and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act.

Section 101(a)(15)(K) of the Act defines "fiance(e)" as:

> An alien who is the fiancee or fiance 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 entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiance(e) petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties **have previously met in person within two 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. . . [emphasis added].

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on March 29, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 29, 2000 and ended on March 29, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that she and the beneficiary had personally met. In a response to the director's request for additional information and documentary evidence concerning the parties' last meeting, the petitioner submitted undated photographs of the couple together but failed to submit any information concerning when and where they had met. Accordingly, the director denied the petition for failure to comply with the regulatory requirements.

On appeal, the petitioner's representative submits documentation including copies of pages from the petitioner's passport and

airline ticket receipts. The evidence submitted indicates that the petitioner travelled to Vietnam from January 11, 2002 through January 30, 2002. The evidence submitted on appeal supports the photographs previously submitted showing the petitioner and the beneficiary together at an airport in Vietnam.

In the instant case, the petitioner has provided credible documentary evidence to establish that she personally met the beneficiary in Vietnam in January 2002, within the two-year period immediately prior to the filing date of the petition. Therefore, the appeal will be sustained. The decision of the director will be withdrawn and the application will 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 met that burden.

ORDER: The decision of the director is withdrawn. The application is approved.