



U.S. Citizenship
and Immigration
Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

DG

[Redacted]

FILE: [Redacted]
LIN 03 215 54450

Office: NEBRASKA SERVICE CENTER

Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

JAN 27 2005

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

ON BEHALF OF PETITIONER:

[Redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cambodia, as the fiancée 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 not submitted credible documentary evidence to establish the fiancée relationship within the meaning of section 101(a)(15)(K) of the Act. *Decision of the Acting Director*, dated March 25, 2004.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

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

In response to the director's request for evidence and additional information, the petitioner stated that the petitioner's mother and the beneficiary's father are brother and sister making the petitioner and the beneficiary first cousins. The director determined that marriage between first cousins is prohibited in the State of Washington and therefore, the petitioner and the beneficiary cannot legally marry.

On appeal, counsel contends that although Washington does not recognize as valid a marriage between first cousins contracted in Washington, the State does recognize as valid a marriage that is valid where contracted. *Brief in Support of Appeal*, dated April 9, 2004. Counsel asserts that several states do not prohibit marriage between first cousins and therefore, the petitioner and the beneficiary are able to enter into a lawful marriage in the United States. *Id.* (citing *Matter of Bandolis*, 17 I&N Dec. 428 (1980)).

The AAO finds that the record on appeal includes credible documentary evidence to establish the fiancée relationship within the meaning of section 101(a)(15)(K) of the Act. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained and the application is approved.