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U.S. Department of Justice

Immigration and Naturalization Service

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



Public Copy

File: [Redacted] Office: Vermont Service Center

Date: APR 23 2001

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

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:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States, who had one previous marriage. The beneficiary is a native and citizen of China, who had one previous marriage. The director determined that the petitioner had not established that he and the beneficiary personally met within two years prior to the petition's filing date.

The petitioner states that the cost of traveling to China is too expensive.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancee" 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 fiancee 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 bonafide 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 petition was filed with the Service on June 12, 2000. Therefore, the petitioner and the beneficiary must have met in person between June 13, 1998 and June 12, 2000.

The Petition for Alien Fiance(e) (Form I-129F) indicates that the petitioner and beneficiary personally met in September 1995 when the petitioner visited China. The petition also indicates that the petitioner remained in China until May 1996. Since the petitioner had not met the beneficiary in person within two years of the petition's filing date, the director denied the petition.

Absent a personal meeting, the Attorney General may waive the requirement that the parties have previously met. According to the regulation at 8 C.F.R. 214.2(k)(2), the director may exempt the petitioner from this requirement only if it is established that compliance would:



- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice....

On appeal, counsel states that the cost of traveling to China is too expensive, and therefore, the petitioner and beneficiary decided to maintain communications by letters and phone calls. However, financial hardships and other difficulties involved in traveling abroad as required for compliance with the statutory requirement do not constitute extreme hardship. The fact that the petitioner and beneficiary have been corresponding and talking on the telephone is not evidence of a personal meeting.

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.