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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

[redacted]

PUBLIC COPY

File: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 3 1 2001

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:

SELF-REPRESENTED

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

Myra L. Rosenberg

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The Director of the Nebraska Service Center denied the nonimmigrant visa petition, and the matter is now before the Associate Commissioner for Examinations 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 Laos, 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 and the beneficiary had not previously met in person within two years before the date of filing the petition as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner, or unique circumstances.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), 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 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...[emphasis added]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on August 24, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 24, 1998 and ended on August 24, 2000.

In response to the director's request for additional information about the last meeting between the petitioner and the beneficiary, the petitioner submitted a statement from his brother who attested to the fact that the petitioner visited Laos in August of 1995, at which time the petitioner and the beneficiary became engaged. Citing that this in person meeting between the petitioner and the

beneficiary had occurred prior to the relevant two-year period, the director denied the petition.

On appeal, the petitioner claims that he visited Laos in the year 2000 at which time he saw the beneficiary in person. The petitioner also states he has an engagement letter and pictures of an engagement ceremony in Laos. The petitioner does not, however, submit this evidence.

Section 214(d) of the Act specifically requires the petitioner to prove that he and the beneficiary had met in person within two years before the date of filing the petition. In the instant case, the relevant two-year period is August 24, 1998 to August 24, 2000. According to evidence in the record, the petitioner and the beneficiary last met in August of 1995, approximately 3 years prior to the relevant two-year period (August of 1998 to August of 2000).

Although the petitioner claims on appeal that he traveled to Laos in the year 2000 and met the beneficiary, the petitioner does not present evidence of his claim. As previously stated, the petitioner bears the burden of establishing that he met the beneficiary in person sometime during the August 24, 1998 through August 24, 2000 time period. The petitioner's own statements will not suffice; the petitioner must submit documentary evidence that he and the beneficiary met in person during the two-year period in question. Acceptable documentary evidence includes, but is not limited to, photographs of the petitioner and the beneficiary together that indicate the date(s) and place(s) of their meeting, copies of the petitioner's travel itinerary, and a copy of the petitioner's airline ticket receipt. Without documentary evidence that clearly establishes that the petitioner and the beneficiary met in person during the requisite two-year period, the petition cannot be approved unless the director grants a waiver of such a requirement.

Pursuant to 8 C.F.R. 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance with the regulation 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.

This regulation does not define what may constitute extreme hardship to a petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis, taking into account the totality of the petitioner's circumstances.

The petitioner did not claim that the requirement of a personal

meeting between him and the beneficiary would result in extreme hardship or violate established cultural customs or social practices. Accordingly, the director's decision to deny the petition will not be disturbed.

Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner can obtain documentary evidence that he and the beneficiary met in person during the required two-year period, the petitioner may submit a motion to reconsider the dismissal of this appeal. Otherwise, if the petitioner and the beneficiary meet again in person, the petitioner may file a new I-129F petition in the beneficiary's behalf so that a new two-year period in which the parties are required to meet will apply.

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.