



U.S. Department of Justice

Immigration and Naturalization Service

DB

OFFICE OF ADMINISTRATIVE APPEALS  
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Washington, D.C. 20536



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prevent clearly unwarranted  
invasion of personal privacy

File:



Office: VERMONT SERVICE CENTER

Date:

DEC 08 2002

IN RE: Petitioner:  
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

**PUBLIC COPY**

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 Wayne L. Rooney*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont 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 India, as the fiancé(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 met within the two-year period that immediately preceded the filing of the petition.

On appeal, the petitioner submits a statement and additional evidence.

8 C.F.R. 214.2(k)(2) states, in pertinent part:

*Requirement that petitioner and beneficiary have met.*  
The petitioner shall establish to the satisfaction of the director that the petitioner and beneficiary have met in person within the two years immediately preceding the filing of the petition.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with the Service on March 30, 2001. Therefore, the two-year period immediately preceding the filing of the petition is March 30, 1999 through March 30, 2001. The petitioner has the burden of proving that he met the beneficiary in person sometime during this period of time.

The petitioner stated in the initial petition filing that he last saw the beneficiary on March 5, 1998 during their engagement party and that he and beneficiary had been talking on the phone since that time. The director did not find that the petitioner presented any evidence that compelling reasons existed to waive the requirement of a personal meeting between the petitioner and the beneficiary during the requisite two-year period. The director, therefore, denied the petition.

On appeal, the petitioner states that he and the beneficiary have corresponded extensively since their engagement and he submits copies of letters from the beneficiary to him. Regarding whether compelling circumstances exist to waive the requirement of a personal meeting between him and the beneficiary, the petitioner also states that:

According to our Indian custom, we are not allowed to meet our fiancé or fiancée in person. Only time we can

meet is at our marriage.

The petitioner has not presented persuasive evidence to overturn the director's decision to deny the petition.

The regulation at § 214.2(k)(2), which was previously cited, requires a petitioner to prove that he last met the beneficiary no more than two years prior to the filing of the petition. In the instant case, the relevant two-year period is March 30, 1999 through March 30, 2001. The petitioner's last meeting with the beneficiary occurred in March of 1998, approximately one year prior to the beginning of the relevant two-year period and three years prior to the filing of the petition. Thus, the petitioner did not comply with the regulatory requirement of last meeting the beneficiary within the specified timeframe of March 30, 1999 through March 30, 2001. Although the petitioner, on appeal, requests that the director waive the regulatory requirement of an in person meeting between the petitioner and the beneficiary, the petitioner has not presented sufficient evidence to establish that such a meeting would have violated his and the beneficiary's cultural practices.

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, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day.

The petitioner states that his cultural practice prohibits him from meeting the beneficiary prior to their marriage; however, the petitioner has not presented any documentary evidence of his assertion. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. The petitioner has not presented any compelling evidence to support a claim that marriages in his tradition are traditionally arranged by the parents of the contracting parties and that a meeting between him and the beneficiary subsequent to the engagement party and prior to the wedding day would have violated such a cultural practice.

Accordingly, the director's decision to deny the petition is affirmed. Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice. Therefore, 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.