



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

PUBLIC COPY

File:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: FEB 1 2001

IN RE: Petitioner:
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:

[REDACTED]

identification 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

Mark C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and 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 Ethiopia, 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, 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...

The Petition was filed with the Service on May 10, 1999. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 10, 1997 and ended on May 10, 1999.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and beneficiary had met and seen each other, but he failed to provide an adequate amount of information concerning the meeting. Therefore, on July 28, 1999, the director requested that the petitioner submit evidence that the petitioner and the beneficiary have met in person within the required two-year period. In response, the petitioner submitted the following statement:

The last time I was in Ethiopia was in July

11, 1996 until October 10, 1996. I spend the three months getting to know [REDACTED] and her family...I have not traveled back there since because I have not had time off work and it is very expensive and I would rather save my money for when we get married. We are continuously speaking on the telephone (which is in itself very expensive).

As the meeting between the petitioner and the beneficiary took place prior to the two-year period immediately preceding the filing of the petition, and the petitioner's reasons for not meeting the beneficiary in person did not establish the existence of unique circumstances or extreme hardship to the petitioner, the director denied the petition.

On appeal, the petitioner claims that an on-going civil strife between Ethiopia and Eritrea prevents the petitioner from traveling to Ethiopia, where the beneficiary currently resides. The petitioner further claims that "many Eritrean-Americans who went to Ethiopia for a visit were arrested at the airport on arrival...", and he is, therefore, afraid to travel to Ethiopia to meet the beneficiary.

Pursuant to 8 C.F.R. 214.2(k)(2), a district director may exercise discretion and waive the requirement of a personal meeting between the petitioner and beneficiary 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.

The petitioner's reasons for not meeting the beneficiary do not fall within one of the exceptions cited in §214.2(k)(2) for the following reasons:

First, the United States Department of State publishes travel warnings and public information sheets for U.S. citizens through the Consular Affairs internet web site at <http://travel.state.gov>. Travel Warnings are issued when the State Department decides, based on all relevant information, to recommend that Americans avoid travel to a certain country. Public Announcements are a means to disseminate information about terrorist threats and other relatively short-term and/or trans-national conditions posing significant risks to the security of American travelers.

The Department of State does not have a travel warning or a public announcement for Ethiopia to support the petitioner's claim that he would be arrested at the airport upon his arrival in Ethiopia; and the petitioner has not submitted any independent country conditions

information to support his claims. Moreover, it is not necessary for the petitioner to travel to Ethiopia. The language in the statute does not require the petitioner to visit the beneficiary in the beneficiary's country of residence. The statute only requires an in-person meeting between the petitioner and the beneficiary, which can take place in any country. There is no evidence in the record that the petitioner and the beneficiary have attempted to meet in a third country, if the petitioner's travel to Ethiopia or the beneficiary's travel to the U.S. is problematic.

Finally, the Service questions the veracity of the petitioner's claims that he is unable to travel to Ethiopia due to a fear of harm, as the petitioner did not previously raise this issue in the initial I-129F petition.

The record reflects that the petition was filed on May 10, 1999. According to the Department of State, a border dispute between Ethiopia and neighboring Eritrea erupted in May 1998. At the time the beneficiary filed the petition, the civil strife between Ethiopia and Eritrea was ongoing; yet, the petitioner did not inform the director that the ongoing civil strife was the reason why the petitioner and the beneficiary had not met in person. Rather, the petitioner cited his inability to receive vacation time from work and the prohibitive cost of travel. Now, on appeal, the petitioner raises the issue of civil strife as a reason for his inability to travel.

The petitioner's discrepant statements about why he and the beneficiary did not meet in person within the required two-year period call into question the genuineness of the petitioner's claim that he is unable to travel to Ethiopia due to a fear of harm.

Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Matter of Ho, 19 I&N Dec. 582, 591 (BIA 1988).

The petitioner has failed to establish that he and the beneficiary have personally met as required by section 214(d) of the Act, and that extreme hardship or unique circumstances qualify him for a waiver of the statutory requirement. Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice, and the petitioner may file a new I-129F petition after he and the beneficiary have met in person.

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.