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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

Date: JUL 3 2001



Public Post

File: [Redacted] Office: NEBRASKA SERVICE CENTER

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:  
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 nonimmigrant visa petition was denied by the Director, Nebraska Service Center, 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 Thailand, 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 fiancée or fiancé 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 fiancée 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 Petition for Alien Fiance(e) (Form I-129F) was filed with the Service on October 15, 1999. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 15, 1997 and ended on October 15, 1999.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had not met. The petitioner explained in an attached letter that he planned on traveling to Thailand on December 9, 1999 to meet the beneficiary. The petitioner attached a copy of his travel itinerary, correspondence between him and the beneficiary, an affidavit from a mutual friend, and copies of telephone bills. As the meeting between the beneficiary and the petitioner had not occurred prior to the

filing date of the petition, and as no unique circumstances existed to waive this requirement, the director denied the petition.

On appeal, the petitioner states that he traveled to Thailand in December 1999 at which time he and the beneficiary became engaged. The petitioner submits copies of photographs of him and the beneficiary together at their engagement party.

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 October 15, 1997 to October 15, 1999. According to evidence the petitioner submits on appeal, the petitioner and beneficiary met in December of 1999, approximately two months after the filing of the petition.

As the meeting between the petitioner and the beneficiary did not occur until after the petition was filed, the appeal must be dismissed. Pursuant to 8 C.F.R 214.2(k)(2), however, the denial of this petition is without prejudice.

Accordingly, now that the petitioner and the beneficiary have met in person, the petitioner should 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.