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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



File: [Redacted]

Office: NEBRASKA SERVICE CENTER Date:

MAR 30 2001

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

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

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 is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Libya, 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. The petitioner had claimed that he is unable to travel to Libya to meet the beneficiary because, as a political refugee from Libya, he is unable to return to that country.

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...

The petition was filed with the Service on April 2, 1998. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 2, 1996 and ended on April 2, 1998.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and beneficiary had met in person; however, the petitioner did not specify the date and place of their last meeting. Therefore, the director requested additional information from the petitioner about the last meeting between the petitioner and the beneficiary. In response, the petitioner stated that he had actually never met the beneficiary, as the marriage between him and beneficiary was arranged by their families according to Islamic law. The beneficiary stated that his status as a political refugee

makes it dangerous for him to travel to Libya to meet the beneficiary. Citing that no extreme hardship or unique circumstances existed to warrant a waiver of the requirement to meet in person, the director denied the petition because the petitioner and the beneficiary had never met as required by the regulation.

On appeal, the petitioner reiterates that he cannot return to Libya because he is a political refugee. The petitioner also claims that the beneficiary is unable to leave Libya to meet him in a third country because, according to Islamic law, she is unable to meet the beneficiary alone and her family could not afford to travel with her to a third country. The petitioner also states that his meeting with the beneficiary, even in a third country, would place her and her family at risk with the Libyan government because of his status as a political refugee.

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 two parties 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 record contains sufficient evidence that a personal meeting between the petitioner and the beneficiary would result in extreme hardship to the petitioner. Records of the Immigration and Naturalization Service (INS) show that the petitioner was recognized as a refugee. Section 101(a)(42) of the Act, states that a refugee is a person who is unable or unwilling to return to his country of nationality or last habitual because of persecution or a well-founded fear of persecution on account of a protected ground.

Considering that the petitioner was recognized as a refugee from Libya, it would be an extreme hardship for him to return to that country in order to meet the beneficiary. Although the statute does not require the petitioner to travel to Libya in order to meet the beneficiary, he has persuasively shown that travel to a third country would be unreasonable. Accordingly, the requirement of a personal meeting between the petitioner and the beneficiary will be waived by the Service in this particular case as a matter of discretion.

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 met that burden.

ORDER: The appeal is dismissed.