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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



PUBLIC COPY

File:

Office: NEBRASKA SERVICE CENTER

Date: 15 NOV 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)

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

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 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 the Philippines, 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 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.

On appeal, the petitioner submits a statement and photocopies of airline tickets and hotel bills concerning his and his son's trip to the Philippines in April of 2001. The petitioner also submits photographs of his and the beneficiary's engagement party.

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.** [emphasis added]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on February 7, 2001. Therefore, the two year period immediately preceding the filing of the petition is February 7, 1999 through February 7, 2001. The petitioner has the burden of proving that he met the beneficiary in person sometime during this period of time.

In response to Question #19 on the Form I-129F, the petitioner stated that he and beneficiary had never met; however, they had corresponded and were committed to marrying. Nevertheless, the director denied the petition, citing that no unique circumstances existed to waive the requirement of a personal meeting between the petitioner and the beneficiary within the two years that immediately preceded the filing of the petition.

On appeal, the petitioner submits evidence that he traveled to the Philippines with his son in April of 2001.

It is important to emphasize that the regulation at § 214.2(k)(2) 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 February 7, 1999 to February 7, 2001. According to evidence the petitioner submits on appeal, the petitioner and beneficiary last met in April of 2001, approximately two months after the filing of the petition. Therefore, although the petitioner and the beneficiary have met in person, their last meeting did not occur within the relevant two-year period, which in this case is from February 7, 1999 through February 7, 2001.

The director's decision to deny the petition is, therefore, affirmed. 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 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 petitioner should submit evidence that he and beneficiary have met within the two-year period that immediately precedes the filing of the petition. 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 may not be approved unless the director grants a waiver of such a requirement.

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.