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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: [Redacted]

Office: TEXAS SERVICE CENTER

Date: OCT 04 2001

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. Rosenbly
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The Director of the Texas 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 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.

On appeal, the petitioner submits a statement.

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) on December 10, 1998. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 10, 1996 and ended on December 10, 1998.

In response to Question #19 on the Form I-129F, the petitioner stated that he and beneficiary had never met; however, they had corresponded extensively. 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 requests a waiver of the requirement to meet the beneficiary in person. The petitioner states that it would be a financial hardship for him to leave his job and pay for transportation to and from the Philippines, as well as his traveling expenses. The petitioner further notes that when the beneficiary comes to the United States for their marriage, he will be required to spend additional money for their living expenses.

The record clearly reflects that the petitioner and the beneficiary have never met. 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 it would have been a financial hardship for him to have traveled to the Philippines to meet the beneficiary during the December 10, 1996 to December 10, 1998 period in question. However, the cost of travel outside of the United States is not a sufficient reason to waive the requirement of a personal meeting. 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 May 11, 1998 to May 11, 2000. According to evidence the petitioner submits on appeal, the petitioner and beneficiary last met in April of 2001, approximately eleven 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 May 11, 1998 through May 11, 2000.

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 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 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.