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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: Texas Service Center

Date:

**OCT 18 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

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**INSTRUCTIONS:**

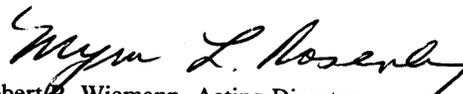
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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

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

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Texas 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 had one previous marriage. The beneficiary is a native and citizen of the Philippines. The director determined that the petitioner had not established that he and the beneficiary personally met within two years prior to the petition's filing date.

On appeal, the petitioner submitted additional evidence for consideration.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancee" 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 February 15, 2000. Therefore, the petitioner and the beneficiary must have met in person between February 16, 1998 and February 15, 2000.

The Petition for Alien Fiance(e) (Form I-129F) indicates that the petitioner and beneficiary last met during operation desert storm in Dhahran, Saudi Arabia. Since the petitioner had not met the beneficiary in person within two years of the petition's filing date, the director denied the petition.

The petitioner has now submitted a copy of his passport to show that he visited his fiancee in the Philippines on November 5, 2000 and returned to the United States on November 11, 2000. Unfortunately, the petitioner and beneficiary still have not met within the required time period (February 16, 1998 and February 15, 2000). Therefore, this decision is without prejudice to the filing of a new petition (Form I-129F) to classify status as an alien

fiancee within two years of that last meeting. The petition must be submitted with the required documentary evidence and fee.

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 will be dismissed.