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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

Office: VERMONT SERVICE CENTER

Date: **MAR 19 2010**

IN RE:

Petitioner:
Beneficiary:

[REDACTED]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Nepal, as the fiancé(e) of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the record contains no G-325A, Biographic Information, forms for the petitioner and the beneficiary, and evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner states, in part, that he was unable to visit the beneficiary during the two-year period immediately preceding the filing of the petition because of the following: the political situation in Nepal and the Democratic Republic of the Congo, where the beneficiary was working as a nurse, is bad thereby making it "not a very good idea" for travel by U.S. citizens; and his financial situation is not strong enough to travel to "Nepal or other countries at this time." The petitioner also states that the beneficiary tried to come to the United States but was unable to obtain a visa. As supporting documentation, the petitioner submits a Form I-134, Affidavit of Support, executed on behalf of the beneficiary; his student record; copies of his current and expired N.Y. driver licenses, N.Y. property tax and mortgage information, pay stubs, and birth certificate; copies of the information pages from his parents' U.S. passports, their naturalization certificates, social security cards, and marriage certificate; and copies of previously submitted documentation.

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

Subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 admission.

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

[s]hall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide 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

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from this requirement for a meeting if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would 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. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on April 3, 2009. Therefore, the petitioner and the beneficiary were required to have met in person between April 3, 2007 and April 3, 2009.

When he filed the petition, the petitioner responded "No" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition. The petitioner stated that it was extremely dangerous to travel to Nepal and that he had to pay "special fees" to a gunman in order to save his life when he was there two years ago.

On September 1, 2009, the director issued a Request for Evidence (RFE), requesting that the petitioner submit evidence that he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition or, in the alternative, evidence to establish why the requirement of an in-person meeting should be waived. The director also requested completed G-325A, Biographic Information, forms for the petitioner and the beneficiary.

In his September 28, 2009 response to the director's RFE, the petitioner submitted the following: his original naturalization certificate and social security card; a certificate of engagement for himself and the beneficiary; a "no objection" letter from the beneficiary's parents; a "relation verification" certificate for the beneficiary's family; the beneficiary's birth certificate; the marriage certificate of the beneficiary's parents; Nepali citizenship certificates for the beneficiary and her parents; copies of identity documents for the beneficiary; correspondence from the beneficiary; photographs; and a copy of previously submitted documentation.

The director denied the nonimmigrant visa petition because the record contains no G-325A, Biographic Information, forms for the petitioner and the beneficiary, and no evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement.

As discussed above, the petitioner states on appeal that he was unable to visit the beneficiary during the two-year period immediately preceding the filing of the petition because the political situation in Nepal

and the Democratic Republic of the Congo is bad, thereby making it “not a very good idea” for travel by U.S. citizens, and that he does not have sufficient funds for travel at this time. The petitioner also states that the beneficiary tried to come to the United States but was unable to obtain a visa.

The AAO acknowledges the petitioner’s safety concerns regarding travel to Nepal and the Democratic Republic of the Congo. Section 214(d) of the Act, however, does not require that the petitioner travel to the beneficiary’s home country of Nepal or to the Democratic Republic of the Congo, where the beneficiary works, for the requisite meeting. In addition, although the petitioner asserts on appeal that the beneficiary tried to come to the United States but was unable to obtain a visa, the record contains no evidence in support of his assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Without more details to substantiate the petitioner’s claims that he could not travel during the requisite period because of hardship issues, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between him and the beneficiary. Moreover, the financial commitment required for travel to a foreign country is a common requirement to those filing the Form I-129F petition and does not constitute extreme hardship to the petitioner. The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner. In addition, the petitioner still has not submitted the required G-325A, Biographic Information, forms for himself and the beneficiary. Accordingly, the appeal is dismissed. The petition must be denied.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should ensure that he submits all of the required supporting documentation. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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. The petition is denied.