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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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FILE:

Office: VERMONT SERVICE CENTER

Date:

OCT 22 2010

IN RE:

Petitioner:

Beneficiary:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

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 Nigeria, 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 petitioner failed to submit any initial evidence or supporting documentation. On appeal, the petitioner states, in part, that he was unable to attend his and the beneficiary's May 13, 2010 engagement ceremony because he is on parole in the State of Maryland and not allowed to travel. As supporting documentation, the petitioner submits the following items: proof of his U.S. citizenship; a statement of his intent to marry the beneficiary within 90 days of her entry into the United States in K-1 status; a letter from the Maryland Parole Commission Chairman of the Department of Public Safety and Correctional Services, dated March 8, 2010; and photographs and video of his and the beneficiary's May 13, 2010 engagement ceremony.

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 13, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between April 13, 2008 and April 13, 2010.

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 he last saw the beneficiary in September 2002.

On appeal, the petitioner submits the documentation listed above. The petition may not be approved, however, because the record still does not contain the following required documentation: passport-style color photographs for the petitioner and the beneficiary; completed G-325A, Biographic Information forms for the petitioner and the beneficiary; an original statement from the beneficiary or other evidence that establishes her intent to marry the petitioner within 90 days of her entry into the United States in K-1 status; and evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition. The AAO acknowledges the petitioner's assertion that he was unable to attend his and the beneficiary's May 13, 2010 engagement ceremony because of his parole restrictions. The engagement ceremony, however, occurred after the two-year period immediately preceding the filing of the petition. As discussed above, the petitioner and the beneficiary were required to have met in person between April 13, 2008 and April 13, 2010. Thus, the evidence and circumstances pertaining to the May 13, 2010 engagement ceremony do not establish that the petitioner qualifies for an exemption of the in-person meeting requirement.

The instructions to the I-129F petition at pages 2 and 3, items #5 and #6, state that the above described documentation must be submitted for both the petitioner and the beneficiary. When filing the petition, the petitioner did not submit any supporting documentation, and thus the director denied the petition.

On appeal, the petitioner submits the items listed above, but does not submit all of the required supporting documentation as described in the instructions to the I-129F petition. As a result, the beneficiary cannot benefit from the instant petition. Therefore, the appeal will be dismissed and the petition will 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.

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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.