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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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Date: **MAY 25 2011**

Office: VERMONT SERVICE CENTER

FILE: 

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, with a fee of \$630. 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. A subsequent appeal was summarily dismissed by the Administrative Appeals Office (AAO) because the petitioner failed to submit any additional documentation in support of the appeal. Upon further review, the AAO determined that the petitioner submitted additional documentation and reopened the proceeding on its own motion. The AAO dismissed the appeal. A subsequent motion to reconsider was improperly adjudicated by the director and thus the motion to reconsider is now before the AAO. The motion will be granted. The previous decision of the AAO, dated October 29, 2010, will be affirmed and the petition will remain denied.

As the facts and procedural history have been adequately documented in the previous decision of the AAO, dated October 29, 2010, only certain facts will be repeated as necessary here. The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Eritrea, 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 petition because the petitioner failed to submit evidence that he and the beneficiary had met, as required under section 214(d) of the Act, or that he qualified for an exemption from this meeting requirement, pursuant to 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner asserted that he was unaware of the child support enforcement laws and that the arrearage continued to accrue despite his years of unemployment and health problems. The AAO dismissed the appeal, however, because 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.

On motion, the petitioner states, in part, that the AAO dismissed his appeal in error. As supporting evidence, the petitioner resubmits a copy of a notification dated November 30, 2008, addressed to him from the New York State (NYS) Child Support Processing Center in Albany, New York, showing an unpaid balance of \$151,635.19. The petitioner also calls the AAO's attention to the previous evidence that he submitted, including documents related to his child support arrearage, documents related to the denial of his application for a U.S. passport due to his child support arrearage, and documents related to his travel plans that were abandoned after the denial of his application for a U.S. passport. The petitioner asserts, in part, that he qualifies for an exemption of the in-person meeting requirement because his circumstances are not within his power or control to change and will last for some time, as he is unable to obtain a U.S. passport because of his child support arrearage.

As stated in our prior decision, section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states, in pertinent part, that a fiancé(e) petition shall 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" The regulation at 8 C.F.R. § 214.2(k)(2), permits U.S. Citizenship and Immigration Services (USCIS) to grant the petitioner an exemption from the in-person meeting requirement in circumstances where the petitioner establishes either that compliance would result in extreme hardship to the petitioner, or would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In this matter, the petitioner is seeking an exemption from the in-person meeting requirement due to his inability to obtain a U.S. passport because he owes more than \$150,000 in child support in the State of New York. As noted by the director and the AAO in its prior decision, the petitioner has not

established that the in-person meeting requirement would have posed a hardship to him because his inability to travel was purely financial, as he was unable to obtain a passport due to his large child support debt. Individuals submitting alien fiancée petitions must be prepared for the financial commitments that travel to a foreign country requires, even if the financial commitment relates to obtaining the necessary documentation, such as a U.S. passport. In this matter, USCIS does not find a sufficient basis to waive the requirement that the petitioner and the beneficiary must have met during the two-year period immediately preceding the filing of the petition. Consequently, the previous decision of the AAO, dated October 29, 2010, will be affirmed and the petition will remain denied.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the previous decision of the AAO, dated October 29, 2010, will be affirmed and the petition will remain denied.

ORDER: The decision of the AAO, dated October 29, 2010, is affirmed. The petition remains denied.