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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

D6



Date: **APR 09 2012** Office: CALIFORNIA 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 nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Laos, as the fiancé(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 because the petitioner had failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition or that he is eligible for a waiver of this requirement.

On appeal, the petitioner provided a statement and a letter from his physician.

*Applicable Law*

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who 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 entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), 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 two 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, except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2):

As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner; or that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social 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.

*Factual and Procedural History*

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on August 2, 2010. Therefore, the petitioner and beneficiary were required to have met between August 2, 2008 and August 2, 2010. On the Form I-129F, the petitioner indicated “yes” to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition. However, he also stated that his last visit to Laos was in February 2005.

On January 14, 2011, the director issued a Request for Evidence (RFE) to establish that the petitioner and the beneficiary have met in person within the two years immediately preceding the filing of the petition. The director stated that the personal meeting requirement could be waived if the petitioner submitted evidence to establish that compliance with the requirement would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. The director also requested that the petitioner submit a Form G-325A, Biographic Information, for the beneficiary and two (2) passport-style color photographs of the petitioner and the beneficiary. In response to the RFE, the petitioner submitted the requested photographs and Form G-325A as well as a letter from his physician, [REDACTED] stating that the petitioner had his left leg amputated and “needs assistance and care at all times.”

On June 3, 2011, the director denied the Form I-129F with a determination that the medical letter the petitioner submitted did not establish that the petitioner is forbidden to travel. The director further determined that the petitioner had not furnished any evidence as to why the beneficiary would not be able to travel to see him. The director concluded that the petitioner had failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition or that he is eligible for a waiver of this requirement.

On appeal, the petitioner asserted that it is very difficult for the beneficiary to obtain a visitor visa to the United States because they are engaged and he is in the process of applying for a fiancée visa on her behalf. The petitioner submitted another letter from his physician, [REDACTED] which provides that because of the petitioner's physical condition, he has highly recommended that the petitioner not travel outside of his area of residence in Michigan.

*Analysis*

On January 11, 2012, the AAO issued an RFE to the petitioner. The AAO determined that the petitioner had submitted sufficient evidence to establish that compliance with the meeting requirement would cause him extreme hardship, but he still had not submitted all of the required initial evidence. The AAO requested the petitioner to provide original statements from himself and the beneficiary to establish their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status.

The petitioner was afforded eight weeks to respond to the RFE. The AAO, however, did not receive the petitioner's response to the RFE until over ten weeks later on March 26, 2012. Even if the petitioner responded to the RFE in a timely manner, he still has not submitted all of the required initial evidence. The petitioner submitted a letter establishing his intent to marry to the beneficiary within 90 days of her

admission into the United States in K-1 status, but there is no corresponding letter of intent from the beneficiary.

*Conclusion*

As the petitioner's response to the RFE was untimely and he still has not submitted all of the required initial evidence, the director's decision to deny the petition shall not be disturbed. As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed. The petition remains denied.