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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: **JAN 11 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:

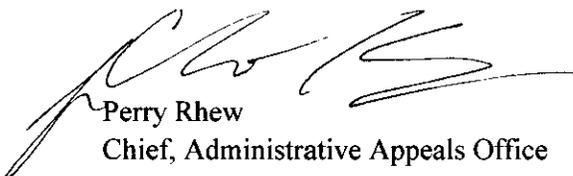
SELF-REPRESENTED

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 native of Kenya and citizen of the United States who seeks to classify the beneficiary, a native and citizen of Kenya, 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 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 meeting the beneficiary in person would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

On appeal, the petitioner provides a statement and additional evidence.

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

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 petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on October 26, 2010. Therefore, the petitioner and beneficiary were required to have met between October 26, 2008 and October 26, 2010.

On the Form I-129F, the petitioner stated that he was last with the beneficiary in July 2008. In his initial letter, dated October 1, 2010, the petitioner explained that he first met the beneficiary in 2008 while he was working on a research project in Nairobi, Kenya for his Master's degree. He stated that they have been communicating over the phone and through e-mail since their meeting. He explained that under his cultural traditions, his parents met the beneficiary and her mother in August 2010. The petitioner noted, "[t]his step is an integral part of my culture and tradition before one can marry." In the beneficiary's initial letter she also stated that in August 2010 she and her mother met the petitioner's mother, father, his younger brother and his other relatives living in Kenya "as part of cultural requirement before one get married."

On March 25, 2011, the director issued a request for evidence showing that the petitioner met the beneficiary within the requisite period.¹ The director stated that if the petitioner is requesting a waiver of this requirement, he must submit evidence that such personal a meeting would result in extreme hardship to the petitioner or violate the beneficiary's strict and long-established customs, foreign culture or social practice.

In response to the director's request, the petitioner submitted a statement, dated April 21, 2011, in which he indicated that after he developed a relationship with the beneficiary, he was not allowed to see her until his parents met her. He submitted copies of visa pages from his and his parents' U.S. passports, which reflect that he visited Kenya from June 21, 2008 until July 29, 2008, his mother visited Kenya in July 2010 and his father visited Kenya in January 2011. He also submitted a statement from [REDACTED] of the [REDACTED]. In his statement, dated April 8, 2011, [REDACTED] provided, "[a]ccording to LUO Marriage customs, after a man meets and proposes to a woman, the parents of both the man and woman meet, discuss and agree on the proposal. After which, arrangements are made by the man to pay dowry. Thereafter, a wedding date is mutually agreed upon by both parties."

In denying the petition, the director noted that [REDACTED] letter does not establish that meetings between men and women are forbidden. The director stated that the petitioner indicated that he had already met the beneficiary in person while he was working on a research project in Kenya from June until July 2008. The director determined that the petitioner had not established that an in person meeting would violate strict and established customs.

On appeal, the petitioner asserts that he and the beneficiary belong to the Luo ethnic tribe. He states that according to Luo marriage customs, his parents had to meet the beneficiary and approve and bless the marriage proposal. The petitioner states that a subsequent meeting with the beneficiary "would jeopardize [their] marriage plans as it would be in violation of Customs." He contends that they are "in the process of meeting the traditional arrangements in accordance with the LUO customs/practice." He recounts that in August 2010 his parents met the beneficiary and her parents in Kenya and on May 21, 2011 they paid a bride price to the beneficiary's parents in accordance with Luo customs. The

¹ The director also requested that the petitioner submit a Form G-325A, Biographic Information, for the beneficiary.

petitioner explains that after they agree upon a wedding date, he will travel to Kenya to meet the beneficiary's parents "for them to hand her over to [him]." The petitioner submitted: a copy of his father's passport with a visa page showing that his father traveled to Kenya in August 2010; a MoneyGram receipt reflecting a transfer of funds; his mother's flight itinerary showing her planned travel to Kenya in July 2011; a letter from his parents, dated July 1, 2011; and an additional letter from [REDACTED] dated June 28, 2011.

The petitioner's parents, [REDACTED], stated that they are natives of Kenya and belong to the Luo tribe. His parents recalled that after the petitioner returned to the United States from Kenya, he informed them of his relationship with the beneficiary and their decision to marry. The petitioner's parents explained that in keeping with Luo customs, it was imperative that they travel to Kenya to meet with the beneficiary at their ancestral home and then meet with the parents/elders of the beneficiary's community at her ancestral home. His parents recalled that during this meeting, they "agreed to the marriage proposal of [the petitioner and beneficiary], blessed the marriage arrangements, and concurred that the process of bride price may commence." The petitioner's parents asserted that in accordance with Luo customary tradition and requirements, if the petitioner met with the beneficiary after his marriage proposal, it would "jeopardize the process" and "violate strict and established Luo Customs [and] thereby render the process invalid, incomplete and unacceptable thus endanger the marriage." His parents indicated that the petitioner will travel to Kenya in December 2011 for the beneficiary's parents "to hand her over to him."

[REDACTED] reiterated his previous statements and added that a "further face-to-face meeting of [the petitioner and the beneficiary], after the initial one would be in violation of the long standing LUO culture/practice that requires parental meeting. Such meeting and not parental one would endanger the marriage process as it will fail to help attain traditional recognition essential for a formal marriage." [REDACTED] explained that according to the beneficiary's mother, they would have another "parental meeting" to discuss the wedding date. He noted that the petitioner will meet the beneficiary's mother and uncles in December 2011 and they will be "declared traditionally married [and] thus pave the way for a formal/western wedding."

Upon a full review of the documentation in the record, we find that the petitioner has not established that meeting the beneficiary in person within the requisite time period 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. The petitioner stated that he met the beneficiary during his travel to Kenya in June 2008 and they developed a relationship at that time until his departure in July 2008. The petitioner indicated that his marriage was not arranged and he and the beneficiary decided to get married on their own accord after they continued their relationship long-distance. The petitioner has not stated the date that he and the beneficiary became engaged, but he has indicated that according to their Luo cultural traditions his parents had to meet the beneficiary and her family in Kenya without his presence prior to the wedding. The petitioner claims that this cultural meeting requirement is the basis of delay in filing the Form I-129F. However, the petitioner has not stated that he would have been prohibited from visiting the beneficiary prior to his marriage proposal. Nor has he stated that he would be unable to meet the beneficiary now that both families have agreed to the marriage.

Conclusion

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden and the appeal will be dismissed. The petitioner's parents and [REDACTED] stated that the petitioner planned to travel to Kenya in December 2011 to meet the beneficiary and her relatives. The dismissal of this appeal is without prejudice to the filing of a new Form I-129F petition on the beneficiary's behalf within two years of that meeting.

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