

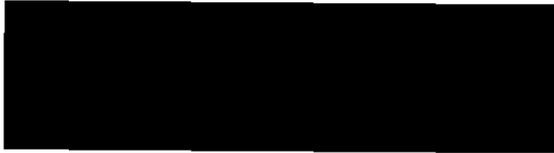
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services



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DATE: JUL 18 2012 OFFICE: CALIFORNIA SERVICE CENTER FILE:



IN RE: Petitioner: [Redacted]  
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:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 service center director (the director) denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. 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 citizen of Vietnam, 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 on the basis of her determination that the petitioner had failed to establish that he met the beneficiary in person within the two-year period immediately preceding the filing of the petition or that he is eligible for an exemption from that requirement. On appeal, the petitioner submits additional evidence.

*Applicable Law*

A “fiancé(e)” is defined at section 101(a)(15)(K) of the Act as someone who:

subject to subsections (d) and (p) of section 214, [is] 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:

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, 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. . . .

The statutory requirement for in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states the following:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. 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 K-1 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. Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

*Pertinent Facts and Procedural History*

The petitioner filed the instant petition on August 29, 2011. The director issued a subsequent Request for Evidence (RFE) and the petitioner submitted a timely response. After considering the evidence of record, including the petitioner's response to the RFE, the director denied the petition on April 30, 2012.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review of the entire record, we find that the petitioner has failed to overcome the director's ground for denying this petition.

*Analysis*

As the petition was filed on August 29, 2011, the petitioner is required by section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2) to demonstrate that he and the beneficiary personally met each other between August 29, 2009 and the date the petition was filed.

In his August 25, 2011 statement submitted below, the petitioner claimed that he met the beneficiary in Vietnam in 2007 and that they remained in touch after his return to the United States. He stated that over time they fell in love with one another and that he visited her in Vietnam in December 2010. In the undated letter he submitted in response to the RFE, the petitioner claimed that he returned to Vietnam to visit the beneficiary in March 2012.

In his April 30, 2012 decision denying the petition the director reminded the petitioner that his March 2012 trip to Vietnam did not take place within the two-year period of time preceding the filing of the petition, and found that the petitioner had not submitted sufficient evidence to establish that he met the beneficiary in person between August 29, 2009 and the date the petition was filed.

On appeal the petitioner submits an invoice dated October 28, 2010 for the purchase of airfare to Vietnam displaying travel dates of December 30, 2010 through January 27, 2011. He claims that he lost his boarding passes from his trip, and that he cannot submit copies of entry and exit stamps from his separated Vietnamese passport because "the custom house kept it." He also submits a copy of an expired Vietnamese passport with stamps dated July 31, 2007, December 27, 2008, and January 27, 2009.

The relevant documentary evidence submitted below and on appeal does not establish that the petitioner and beneficiary met each other during the relevant two-year period of time preceding the filing of the petition. The passport stamps demonstrating trips to and from Vietnam in 2007, 2008,

and 2009 were all issued outside of the relevant two-year period of time preceding the filing of the petition. Likewise, the petitioner's 2012 trip to Vietnam took place outside of that timeframe as well. Although the petitioner's claimed visit to Vietnam from December 30, 2010 through January 27, 2011 would satisfy this requirement, the relevant evidence does not establish that the trip actually took place. Although the invoice is evidence that the petitioner purchased airline tickets, it does not demonstrate that he used them to travel. The pictures of the couple together are not film-dated and do not establish that the claimed trip took place, either. Absent supporting documentation the petitioner's testimony does not establish that the claimed meeting took place. Simply 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'r 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

When considered in the aggregate, the evidence submitted below and on appeal fails to establish that the petitioner and beneficiary personally met each other between August 29, 2009 and the date this petition was filed, as required by section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2).

*This Decision Does Not Prejudice Future Fiancé Petitions*

In accordance with the regulation at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition. Although the couple's March 2012 meeting is not material here because it took place outside the relevant two-period of time preceding the filing of the petition, it would be relevant to a future fiancé petition filed by the petitioner for the beneficiary within two years of that meeting.

*Conclusion*

On appeal, the petitioner has failed to overcome the director's ground for denying the petition and has not established that he met the beneficiary in person within the two-year period of time immediately preceding the filing of the petition. Accordingly, the beneficiary is ineligible for nonimmigrant classification under section 101(a)(15)(K)(i) of the Act and this petition must remain denied.

In these proceedings, the petitioner bears the burden of proof to establish the beneficiary's eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). He has not met his burden and the appeal will be dismissed.

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