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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: JUL 18 2012 OFFICE: CALIFORNIA SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Petition for Alien Fiancé(e) Pursuant to Section 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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a citizen of the Palestinian Authority, 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 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 October 6, 2011. The director issued a subsequent request for additional 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 March 13, 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.

*Exemption from Requirement for In-Person Meeting Within Two Years of Filing Petition*

As the petition was filed on October 6, 2011, the petitioner is required by section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2) to demonstrate to the satisfaction of the director that he and the beneficiary personally met each another between October 6, 2009 and the date he filed the petition. Although the petitioner submits evidence indicating he and the beneficiary met in Egypt in December 2011, that meeting does not satisfy section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2) because it did not take place during the two-year period immediately preceding the filing of this petition. Although the petitioner conceded on the Form I-129F that he and the beneficiary did not meet each other during the relevant two-year timeframe preceding the filing of the petition, he requests that we exercise discretion to waive this requirement found at 8 C.F.R. § 214.2(k)(2).

In the undated letter he attached to the Form I-129F, the petitioner stated that he had been unable to meet with the beneficiary, who lives in the Gaza Strip, due to political instability and unrest. He claimed that U.S. citizens are not permitted to enter the Gaza Strip for personal matters and that he could not alternatively enter the Gaza Strip as a Palestinian citizen because he cannot obtain a Palestinian passport since his father's passport was taken away 25 years ago.

In his February 22, 2012 letter submitted in response to the director's RFE, the petitioner claimed that he met the beneficiary in Egypt in December 2007, and again in December 2011. With regard to why he did not meet the beneficiary during the two-year period of time preceding the filing of the petition, the petitioner referenced ongoing unrest in the Gaza Strip. The petitioner also explained that he and the beneficiary were unable to meet in Egypt during the relevant two-year timeframe because their relationship did not evolve into a romantic one until early 2011, which was a period of instability and unrest in Egypt. He stated that when things "looked a lot better" in November 2011,

he decided to travel and meet with her. He claimed that because he was unable to enter the Gaza Strip, the two families met each other in Egypt.

On appeal, the petitioner submits a printout from the website of the U.S. Department of State (DOS) regarding travel to Israel, Gaza, and the West Bank, which warns individuals who were born in the United States but have parents born in the Gaza Strip, that Israel may consider them Palestinian and require them to travel on a passport issued by the Palestinian Authority, and that without such a passport they could be barred from entering or exiting the Gaza Strip. As noted, the petitioner claimed below that he is unable to obtain a Palestinian passport. The printout further advises all U.S. citizens "to avoid all travel to the Gaza Strip, which is under the control of Hamas, a designated foreign terrorist organization." The petitioner also submits information regarding political unrest in Egypt in early 2011.

In his April 8, 2012 letter submitted on appeal, the petitioner cites the DOS warning against travel to the Gaza Strip by American citizens and questions why he should be penalized for heeding such advice. He also claims that political instability in Egypt prevented the couple from meeting in Egypt during the two-year period preceding the filing of the petition.

Upon review, the petitioner has failed to demonstrate that he is eligible for either discretionary waiver of the personal meeting requirement described at 8 C.F.R. § 214.2(k)(2). The petitioner has established that travel to the Gaza Strip or Egypt during the two-year period preceding the filing of the petition would have resulted in extreme hardship. However, section 214(d)(1) of the Act does not require any specific location for the personal meeting, only that it take place within the two-year period before the petition is filed. While travel obviously involves both time and financial commitments from both parties, there was no requirement for the petitioner to travel to the Gaza Strip or Egypt. The petitioner has not explained why he meeting the beneficiary in another country was not a viable option for them during the relevant two-year period of time. Consequently, the petitioner has not established that he qualifies for the first discretionary waiver contained at 8 C.F.R. § 214.2(k)(2): that compliance with the in-person meeting requirement would have caused him extreme hardship.

The petitioner does not claim, and the record does not demonstrate, that meeting the beneficiary in person during the two-year period of time preceding the filing of the petition would have violated 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 fact that the petitioner and beneficiary have already met each other would severely weaken any such assertion. Accordingly, the petitioner has failed to establish that he merits exercise of the second discretionary waiver described at 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 December 2011 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 failed to establish that he met the beneficiary in person within the two-year period of time immediately preceding the filing of the petition or that he qualifies for a discretionary waiver from that requirement. 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.