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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

**PUBLIC COPY**



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Date: **MAR 15 2012**

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, 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 native and citizen of Nigeria, 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 nonimmigrant visa petition because the petitioner failed to establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement. On appeal, the petitioner submits a statement and additional photographs.

*Applicable Law*

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, 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 of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

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.

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 fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on March 7, 2011. Therefore, the petitioner and the beneficiary were required to have met in person between March 7, 2009 and March 7, 2011.

On the Form I-129F, the petitioner stated that he met the beneficiary during his travel to Nigeria in December 2008. In a June 14, 2011 Request for Evidence (RFE), the director informed the petitioner that he must either submit evidence of having met the beneficiary in person during the required time period or request a waiver of the meeting requirement. In response, the petitioner submitted a statement in which he explained that he first met the beneficiary in Nigeria in January 2005. He stated that they continued their relationship after he moved to the United States. The petitioner recounted that he subsequently visited the beneficiary in Nigeria from December 2008 until February 2009 and June 2011 until July 2011. The petitioner submitted copies of his passports, which contain entry and exit stamps reflecting his travel to Nigeria from December 25, 2008 until February 8, 2009 and June 7, 2011 until June 30, 2011. He stated that he recently visited the petitioner in June 2011 because he "missed her a lot." He also submitted his flight itinerary for his visit to Nigeria in June 2011, correspondence between himself and the beneficiary, and photographs of himself and the beneficiary.

The director determined that the petitioner failed to establish that he and the beneficiary have met in person within the two-year period immediately prior to the filing date of the petition. The director further determined that the petitioner failed to establish that complying with the meeting requirement is an extreme hardship for him or would violate strict and long-established customs of the beneficiary's foreign culture or social practices. On appeal, the petitioner submits additional photographs of himself with the beneficiary. He asserts that under the beneficiary's tradition, their families must come together and perform a customary rite known as "Introduction." He explains that during this ceremony, both families will exchange greetings in which the petitioner's family must pay a dowry to the beneficiary's family. He states that this event took place when he visited in Nigeria in December 2008, and they planned to get married after the beneficiary received a fiancée visa.

#### *Analysis*

Although the petitioner presented evidence that he visited the beneficiary in Nigeria from December 2008 until February 2009 and June 2011 until July 2011, his travel was not within the requisite time

period. As stated at section 214(d)(1) of the Act, the relevant time period in which the personal meeting between the petitioner and the beneficiary must occur is within the two year period before the filing date of the petition. Here, the couple met prior to this time period and after the petition was filed. A petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). While the evidence of the couple's meeting in 2011 would be relevant to any new fiancé(e) petition that the petitioner may file for the beneficiary in the future, it has no relevance to whether the couple met during the period applicable to this petition, which was between March 7, 2009 and March 7, 2011.

The petitioner has not stated that compliance with this requirement would have resulted in extreme hardship to him. Nor has he stated 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. Although the petitioner explained that he and the beneficiary had a traditional engagement ceremony with a payment of dowry during his December 2008 travel to Nigeria, his subsequent meeting with the beneficiary in June 2011 indicates that he is not culturally prohibited from meeting her prior to their wedding day. Thus, the evidence presented by the petitioner does not demonstrate that he is eligible for a waiver of the meeting requirement.

#### *Conclusion*

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the required time period and the petitioner is not exempt from such a requirement. Consequently, the instant petition must remain denied and the appeal is, therefore, dismissed. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition now that the petitioner and the beneficiary have met in person.

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.

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