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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

Date: **AUG 09 2013** Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

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)

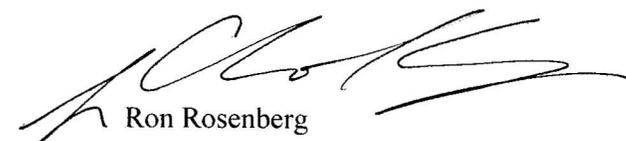
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (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 native and citizen of Syria, as the fiancée 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 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 for Alien Fiancé(e) (Form I-129F), or that he is exempt from such a requirement. On appeal, counsel submits a brief and a U.S. Department of State travel warning for Syria.

Applicable Law

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

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 regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

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

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.

Factual and Procedural History

The petitioner filed the fiancée petition with U.S. Citizenship and Immigration Services (USCIS) on January 4, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between January 4, 2010 and January 4, 2012. When he filed the petition, the petitioner stated that he had not met the beneficiary within the requisite period. The petitioner submitted an affidavit in which he asserted that he would suffer extreme hardship if he had to travel to Syria because the armed conflict in the country would put him in danger. He also asserted that because of the conflict, the U.S. Department of State has banned travel to Syria and the beneficiary has been unable to travel to the United States to visit him. The petitioner further asserted that he has four children who are dependent on him and he has no relatives to care for them if he travels to Syria.

In a May 17, 2012 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, counsel submitted: a second affidavit from the petitioner; U.S. Department of State travel warnings for Syria; and news articles on armed conflict in Syria and Lebanon. In his second affidavit, the petitioner stated that the beneficiary is the sister of his deceased wife. He stated that he has known her for 22 years and they communicate on a daily basis. He asserted that the United States has issued two warnings on travel to Syria, which ban U.S. citizens from traveling to the country. He reiterated that he would face danger if he traveled to Syria. The petitioner also reiterated that he has no one to care for his four children if he traveled to Syria.

In denying the petition, the director determined that 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 that he is exempt from such a requirement. On appeal, counsel asserts that the petitioner learned after his wife's death that she wished for him to marry her sister. Counsel contends that the civil uprising in Syria prevents the petitioner from visiting the beneficiary. Counsel notes that the beneficiary was denied a visa to visit the United States. Counsel further contends that the petitioner has been unable to travel to a third country because he cannot leave four minor children without a parent. Counsel submits an additional U.S. Department of State travel warning for Syria.

Analysis

The evidence of the petitioner's hardship is insufficient for USCIS to exempt him from the statutorily required meeting. The petitioner stated that he has been unable to travel to Syria because of armed conflict in the country. He also stated that if he traveled to Syria, there would be no one to care for his four children. We acknowledge that the U.S. Department of State has issued a warning advising against

travel to Syria because of violence stemming from armed conflict in the country, the duration of which cannot be determined with any degree of certainty. The petitioner, however, has not demonstrated that meeting in a third country would have caused extreme hardship to him. 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. Although the petitioner claimed that he would be unable to travel abroad because he has four children who reside in the United States, he has not discussed the possibility of traveling with his children to a third country to meet the beneficiary. He has also not presented his children's birth certificates as proof of their identity. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On appeal, counsel asserts that based upon the Department of State travel warnings, it would also be a hardship for the beneficiary to depart Syria to meet the petitioner. The August 28, 2012 travel warning submitted with the appeal provides that "U.S. citizens are experiencing difficulty and facing dangers when trying to leave Syria via land borders, and that seats on flights out of Syria are becoming increasingly scarce." However, there is no evidence that the beneficiary, who is a citizen of Syria, has actually attempted to meet the petitioner in a neighboring country. Nor has counsel provided any news or country condition reports on hardships faced by Syrians who are attempting to depart Syria. Therefore, the record does not demonstrate that meeting in a third country would not have been a viable option for the couple.

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 beneficiary may not benefit from the instant petition and it must remain denied. 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 should the petitioner and the beneficiary meet in person in the future.

In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.