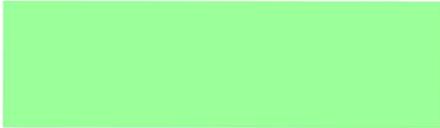




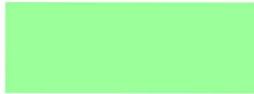
U.S. Citizenship
and Immigration
Services

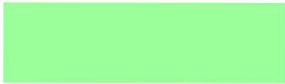
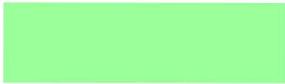
(b)(6)



Date: **FEB 21 2013**

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:

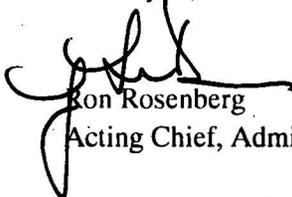
SELF-REPRESENTED

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 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 with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. 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,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California 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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and 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 nonimmigrant visa petition because the petitioner failed to establish that she 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). On appeal, the petitioner submits a statement, a copy of her passport, and 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 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.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on July 6, 2011. Therefore, the petitioner and the beneficiary were required to have met in person between July 6, 2009 and July 6, 2011.

The petitioner indicated on the Form I-129F that her fiancé has met and seen her within the two-year period immediately preceding the filing of the petition. The petitioner, however, provided no other details of their meeting. The petitioner listed on the Form I-129F her fiancé's residential address as Hue City, Vietnam. The petitioner submitted copies of the biographical page and two visa pages from her passport, which reflect that she arrived in Japan on December 22, 2009 and stayed for one day. The second visa page shows that the petitioner was admitted to the United States on January 23, 2010.

On December 27, 2011, the director issued a request for evidence (RFE) of the petitioner having met the beneficiary in person during the requisite period. The director noted that the petitioner had not submitted evidence of her admission into the beneficiary's country of residence, Vietnam. In response to the RFE, the petitioner stated that she visited the beneficiary in Vietnam in 2007, at the end of 2009, and in July 2011. The petitioner submitted boarding passes and airline receipts reflecting that she arrived in [REDACTED] Vietnam from [REDACTED] Japan on July 21, 2011, but this date is after the requisite period. She also submitted seven photographs, two of which she noted show her arrival in Vietnam in December 2009. However, the photographs are of little probative value because they are not date-stamped.

The director denied the petition because the petitioner had not submitted sufficient evidence of having met the beneficiary in person during the two-year period immediately preceding the filing of the Form I-129F, or evidence that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). On appeal, the petitioner asserts that she has provided a copy of her passport showing that she landed in Japan on December 22, 2009 and departed Japan to fly to Vietnam on December 23, 2009. She states that she is providing a picture dated stamped January 19, 2010 that she took with her mother as evidence of her presence in Vietnam. The petitioner resubmits copies of the biographical page and two visa pages from her passport. She also provides additional photographs and a DVD.

Analysis

The petitioner has not overcome the basis for denial in the instant petition. The petitioner resubmitted three photographs of herself and the beneficiary that are not date-stamped. Although the picture the petitioner provided of herself and her mother is date-stamped, the beneficiary is not featured in the photograph. The petitioner's passport reflects that she arrived in Japan on December 22, 2009. It also shows that she was admitted to the United States on January 23, 2010 and again on July 29, 2011. However, the passport does not contain an admission stamp for the beneficiary's place of residence, Vietnam. The petitioner has not submitted any other evidence of meeting the beneficiary during the requisite period. Accordingly, the record does not establish that the petitioner met the beneficiary in person during the two-year period immediately preceding the filing of the Form I-129F.

Conclusion

The petitioner has not established that the statutorily required personal meeting between herself and the beneficiary occurred during the requisite time period. Nor has she requested an exemption from such a requirement. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is, therefore, dismissed. The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F petition, she should ensure that she has submitted all of the required documentary evidence.

As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, the petitioner has not met that burden.

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