



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: **JUN 29 2013**

Office: CALIFORNIA 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:

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. 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 petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, as the fiancée 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 for Alien Fiancé(e) (Form I-129F). On appeal, the petitioner submits evidence of having met the beneficiary in December 2012 in the United Arab Emirates.

*Applicable Law*

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who 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 entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two 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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2):

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 beneficiary's foreign culture or social practice . . . .

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*

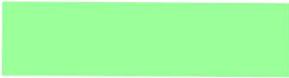
The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on June 11, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between June 11, 2010 and June 11, 2012.

When he filed the petition, the petitioner stated that in November 2011, he met and stayed with the beneficiary for two weeks and they continued to speak after he returned home. The petitioner provided the beneficiary's country of residence as the United Arab Emirates. In a September 13, 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, the petitioner submitted a letter in which he stated that he traveled to the Philippines in November 2011 and after waiting for one week for the beneficiary to arrive, she informed him that she could not meet him. The petitioner submitted: copies of the visa pages from his U.S. passport showing his arrival in the Philippines on November 29, 2011 and departure from the Philippines on December 11, 2011; an unsigned letter from the beneficiary's employer, [REDACTED] located in the United Arab Emirates, denying her request for a leave of absence in December 2011; and a copy of the beneficiary's visa for residence in the United Arab Emirates as an employee of [REDACTED]

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 the Form I-290B, Notice of Appeal or Motion, dated January 10, 2013, the petitioner states that he met the beneficiary in Abu Dhabi in December 2012. He states that when he returned from his trip on December 28, 2012, he received the denial notice. He asserts that since he met the beneficiary before receiving the denial notice, the petition should not be denied. The petitioner submits copies of: the biographical pages of the petitioner's passport and the beneficiary's passport; the visa pages from his passport reflecting an admission stamp for his entry into the United Arab Emirates on December 13, 2012; the petitioner's flight itinerary and boarding passes for his December 2012 travel to Abu Dhabi; the petitioner's receipts from a hotel in Abu Dhabi; and six photographs of the petitioner with the beneficiary.

*Analysis*

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 after filing the petition. 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 would be relevant to any new fiancée petition that the petitioner may file for the beneficiary in the future, it has no relevance as to whether the couple met during the period applicable to this petition, which was between June 11, 2010 and June 11, 2012.



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*Conclusion*

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the requisite 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 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; *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.