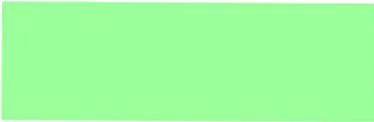


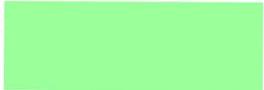


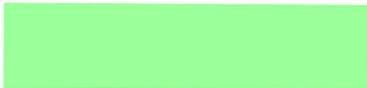
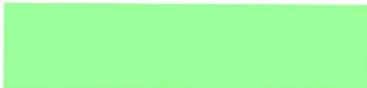
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JUN 29 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. 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 (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 Vietnam, 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), or that he is exempt from such a requirement. On appeal, the petitioner submits a statement and additional evidence.

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 petition with U.S. Citizenship and Immigration Services (USCIS) on June 7, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between June 7, 2010 and June 7, 2012. When he filed the petition, the petitioner stated that he met the beneficiary in Vietnam in January 2012. The petitioner submitted, *inter alia*, photographs of himself with the beneficiary; a copy of the biographic page of his U.S. passport; a copy of his entry visa for Vietnam, issued in Houston on December 14, 2011; and a copy of his receipt for the purchase of an airline ticket with American Airlines on November 15, 2011. The director found this evidence insufficient to establish the petitioner's compliance with the meeting requirement. In a August 30, 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. The petitioner, however, did not respond with any additional evidence.

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, the petitioner reasserts that he met the beneficiary in person in Vietnam in January 2012. The petitioner submits records of his telephone calls to Vietnam, his electronic mail correspondence with the beneficiary, and additional photographs of himself with the beneficiary.

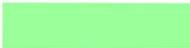
Analysis

The petitioner has still not provided probative evidence of having met the beneficiary within the requisite period. The photographs of the petitioner and the beneficiary are not film-dated, the visa for the petitioner's admission to Vietnam does not contain an admission stamp, and the airline ticket receipt from American Airlines does not identify the location for air travel. In the RFE, the director requested the petitioner to submit the admission stamps to Vietnam from his passport, or if the meeting took place in another location, evidence showing that both the petitioner and beneficiary were at the same location at the same time. The petitioner, however, failed to respond to the RFE with any additional evidence. On appeal, the petitioner has submitted additional photographs that are not film-dated, his telephone records and electronic mail correspondence between himself and the beneficiary. None of these documents demonstrate that the couple met during the period applicable to this petition, which was between June 7, 2010 and June 7, 2012.

Conclusion

The petitioner has not demonstrated that the statutorily required personal meeting between himself and the beneficiary occurred during the requisite time period, or that he is 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.

(b)(6)



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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.