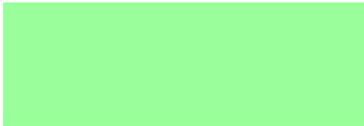


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U.S. Citizenship
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Services

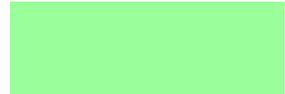


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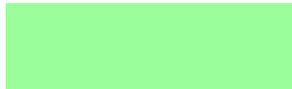
Office: CALIFORNIA SERVICE CENTER

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 (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
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 Bosnia, as the fiancé 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 met the beneficiary in person during the two-year period immediately before the filing of the petition or demonstrate that she is eligible for a waiver of the meeting requirement.

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 on April 25, 2013. Therefore, the petitioner and the beneficiary were required to have met in person between April 25, 2011 and April 25, 2013. The director issued a Request for Evidence (RFE) seeking evidence of, among other things, the personal meeting between the petitioner and the beneficiary during the requisite period or evidence that the personal meeting would have been an extreme hardship to the petitioner or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. In response to the RFE, the petitioner submitted, among other things, photographs of the petitioner and beneficiary together. In denying the petition, the director stated that the petitioner failed to provide evidence of having met the beneficiary within the requisite period or demonstrate that she is eligible for a waiver of the meeting requirement.

On appeal, the petitioner stated that she has had a relationship with her fiancé for more than three years and personally met him in 2010 in Bosnia and in Germany in 2011 and 2012. The petitioner submitted printouts of flight reservations and copies of pages from her U.S. passport.

Analysis

The petitioner and the beneficiary are required to meet in person within the two-year period before the filing date of the petition or submit evidence showing that the personal meeting would have been an extreme hardship to the petitioner or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. Section 214(d)(1) of the Act. In this case, the petitioner has provided flight reservations from [REDACTED] South Dakota, to [REDACTED] Germany, for herself for July 18, 2010 and July 7, 2013 and [REDACTED] entry stamp for July 8, 2013. This travel is not between the required meeting period between April 25, 2011 and April 25, 2013. The petitioner also provided travel reservations from [REDACTED] South Dakota, to [REDACTED] Germany, for herself for December 24, 2012 and December 29, 2011; and pages from her U.S. passport showing [REDACTED] entry stamps for December 30, 2011 and December 25, 2012, and [REDACTED] departure stamps for January 12, 2012 and December 31, 2012. Although the petitioner has provided travel information showing that she was in [REDACTED] within the meeting period, she has not provided any travel information that shows that her fiancé met her in [REDACTED]. The petitioner makes no claim that the personal meeting would have been an extreme hardship to herself or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. Accordingly, the beneficiary cannot benefit from this petition.

Conclusion

The burden of proof in fiancé(e) visa petition proceedings rests solely with the petitioner. 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. The dismissal of this appeal is not without prejudice to the filing of a new Form I-129F petition on the beneficiary's behalf.

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