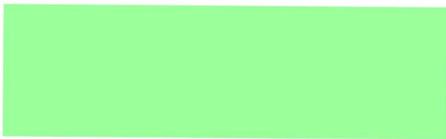




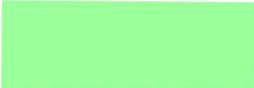
U.S. Citizenship
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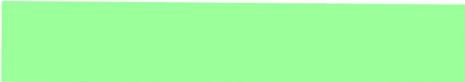


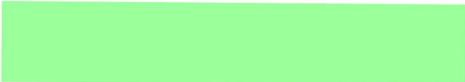
Date: **DEC 10 2014**

Office: TEXAS 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:

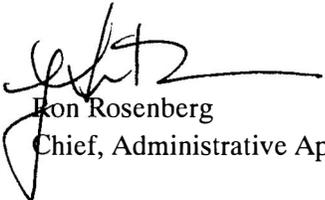
SELF-REPRESENTED

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, Texas 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 Guinea, 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 met the beneficiary in person during the two-year period before he filed the Petition for Alien Fiancé (Form I-129F). On appeal, the petitioner states that he was prohibited from meeting the beneficiary prior to the filing of the petition for religious reasons, and he submits evidence of having met the beneficiary in Senegal in August 2014. See Statement of the Petitioner on Form I-290B, Notice of Appeal or Motion.

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 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 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 USCIS on December 26, 2013 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted additional documentary evidence including a letter from the petitioner

explaining that his religion prevented him from meeting the beneficiary during the two years preceding the filing of the petition.

The director denied the petition finding that the petitioner had failed to submit evidence to establish that he and the beneficiary had met during the two-year period immediately preceding the filing of the petition as required under section 241(d) of the Act, or that he could be exempt from the meeting requirement because compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

On appeal, the petitioner explains that he did not meet the beneficiary prior to the filing of the petition due to religious practice. *See* Statement of the Petitioner on Form I-290B, Notice of Appeal or Motion. The petitioner also states that his service in the U.S. Army prevented the couple's meeting prior to the filing of the petition. *Id.* The appeal is accompanied by evidence that the couple has since met, in August 2014, as well as documentation relating to the petitioner's deployment and religious background.

Analysis

The petitioner has not submitted probative evidence that he and the beneficiary met in person between December 26, 2011 and December 26, 2013, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The evidence in the record reflects that the beneficiary and the petitioner met in August 2014, after the filing of the fiancée petition. On appeal, the petitioner states that he was unable to meet the beneficiary due to Muslim tradition. The beneficiary and petitioner have already met, but their meeting fell outside the two-year period preceding the filing of the petition. There is no evidence in the record to support the petitioner's claim that such a meeting could not have been arranged prior to the filing of the petition, or that his service in the U.S. Army and deployment was an impediment to the couple's meeting during the relevant period.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the 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.

As previously noted, the petitioner and the beneficiary have already met. Thus, the petitioner cannot establish that his inability to meet the beneficiary within the required period was due to Muslim tradition. The couple's meeting in 2014, after filing the fiancé petition, establishes that the filing of the petition was premature.

Conclusion

The appeal will be dismissed for the above stated reasons. 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. 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.

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