

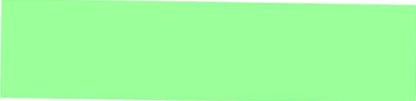


U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JAN 31 2014** Office: CALIFORNIA SERVICE CENTER



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 Iran, as the fiancée of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the petition because the petitioner had failed to: (1) establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition; or (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for him.

On appeal, the petitioner submits additional evidence.

*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 his 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.

*Factual and Procedural History*

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on April 15, 2013. Therefore, the petitioner and beneficiary were required to have met between April 15, 2011 and April 15, 2013. On the Form I-129F, the petitioner indicated “yes” to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition. On the Form I-129F, the petitioner explained that his family has been friends with the beneficiary’s family since his childhood. He stated that he reconnected with the beneficiary during a trip to Iran in 2011, the two began dating, and became engaged in October of 2012.

On August 1, 2013 the director issued a request for evidence (RFE) of, among other things, compliance with the meeting requirement or evidence that compliance would cause the petitioner extreme hardship, or would violate strict and long-established customs of the beneficiary’s foreign culture or social practice. In response to the RFE, the petitioner submitted: a statement from the petitioner; a statement from the beneficiary; a copy of the petitioner’s Iranian passport showing entry and exit stamps for the dates April 11, 2012 and October 6, 2012; a copy of an electronic airline ticket receipt for the petitioner issued on April 24, 2013; copy of an airline boarding pass for the petitioner dated June 18, 2013, and undated photographs of the petitioner and the beneficiary together.

On October 9, 2013, the director denied the petition, concluding that the petitioner did not establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition and did not establish his eligibility for a waiver of that requirement.

*Analysis*

On appeal, the petitioner submits additional photographs of him and the beneficiary together including dated photographs of their engagement party in May of 2013.

Upon a full review of the record, the petitioner has still not established that he met the beneficiary during the requisite two-year period. The petitioner states on appeal that he travelled to Iran in 2012 to visit the beneficiary and that during this time, his mother passed away and prolonged his stay. He stated that the beneficiary comforted him through this difficult time and that the two fell in love. He submits an affidavit from his uncle, Mehdi Shahidi, who states that he attended the petitioner and beneficiary’s engagement party on May 8, 2013. The petitioner further submits: dated photographs of the petitioner and beneficiary during their engagement party on May 8, 2013; photographs of the petitioner and the beneficiary on other occasions during the petitioner’s May of 2013 trip; and undated photographs of the

petitioner and the beneficiary on other occasions that the petitioner claims took place during his 2012 trip. While several of the undated photographs depict the petitioner and the beneficiary at a gravesite, the petitioner does not submit any additional evidence to show that the photographs are of his mother's funeral nor does he submit any corroborating evidence of when the funeral occurred. The only dated photographs are of the petitioner and beneficiary's May 2013 engagement party. Consequently, the record still lacks evidence that the petitioner met the beneficiary during the requisite two-year period. Evidence of the couple's May 2013 meeting would be relevant to any new fiancée petition that the petitioner may file for the beneficiary in the future; however, such evidence has no relevance to whether the couple met during the period applicable to this petition, which was between April 15, 2011 and April 15, 2013. Additionally, the petitioner has not requested nor submitted any evidence that he is eligible for a discretionary waiver of the in-person meeting requirement and his multiple trips to Iran where the beneficiary resides demonstrates his ability to travel to meet her.

*Conclusion*

The petitioner has not demonstrated that he met the beneficiary during the requisite time period and he has not demonstrated that he is eligible for a discretionary waiver of 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 as the petitioner and the beneficiary have recently met in person.

In fiancée 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. sec 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

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