



U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: [REDACTED]
SRC 99 235 50879

Office: Texas Service Center

Date: AUG 10 2000

IN RE: Petitioner:
Beneficiary:



APPLICATION: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

Public Copy

IN BEHALF OF PETITIONER: Self-represented

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrence M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of [REDACTED] 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 determined that the petitioner failed to submit evidence as had been requested to establish that he has personally met the beneficiary within the two years immediately preceding the filing of the petition. The director, therefore, denied the petition.

On appeal, the petitioner claims that he was not aware of the time limit in which to file a petition after meeting the beneficiary. He states that the beneficiary was pregnant with his child and that he waited until after she delivered to file the petition.

Section 101(a)(15)(K) of the Act defines a nonimmigrant in this category 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 admission, and the minor children of such fiancée or fiancé accompanying him or following to join him.

Section 214(d) of the Act, 8 U.S.C. 1184(d), 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 Attorney General in his discretion may waive the requirement that the parties have previously met in person....

8 C.F.R. 214.2(k)(2) provides that as a matter of discretion, the director may exempt the petitioner from the requirement that the parties have previously met 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 petition was filed with the Service on August 30, 1999. Therefore, the petitioner and the beneficiary must have met in person between August 31, 1997 and August 30, 1999.

The petitioner claimed in a statement that he met the beneficiary in 1995 while visiting in [REDACTED]. The petitioner, therefore, has not established that he and the beneficiary met within the required period. Nor has the petitioner established that he warrants a discretionary waiver of the requirement pursuant to 8 C.F.R. 214.2(k)(2).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

This decision is without prejudice to the filing of a new petition (Form I-129F) once the petitioner and the beneficiary have met in person.

ORDER: The appeal is dismissed.