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

[redacted]

FILE: [redacted] Office: California Service Center Date: AUG 16 2000
WAC 99 174 52423

IN RE: Petitioner: [redacted]
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)

IN BEHALF OF PETITIONER: Self-represented

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clearly unwarranted
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.

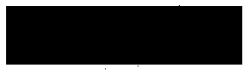
If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent 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

Terrance 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 Nigeria, as the fiance 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 after determining that the petitioner had not established that she and the beneficiary personally met within two years prior to the date of filing the petition, nor had she established that compliance with the requirement would result in extreme hardship to herself.

On appeal, the petitioner states that she has not seen the beneficiary since 1994. She claims that her tight schedule made it impossible for her to travel outside the United States. She further claims that additional expenses she would have incurred would have been financially devastating and would have caused her undue hardship and would have led to her dropping out of school.

Section 101(a)(15)(K) of the Act defines a nonimmigrant in this category as:

> An alien who is the fiancee or fiance 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 fiancee or fiance 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 fiance(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 June 18, 1999. Therefore, the petitioner and the beneficiary must have met in person between June 19, 1997 and June 18, 1999.

On appeal, the petitioner states that she last saw the beneficiary in 1994. While the petitioner claims that it would be an extreme hardship if she were to comply with the requirements, financial hardship, taking time off from work or school, and the necessary arrangements required for compliance with the statutory requirement are normal circumstances and do not constitute extreme hardship.

The petitioner, therefore, has not established that she and the beneficiary have met personally as required, pursuant to section 214(d) of the Act. Nor has the petitioner established that she 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.