D6

U.S. Department of Justice

Immigration and Naturalization Service

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

[redacted]

Public Copy

File: [redacted] Office: Nebraska Service Center Date: APR 2 3 2001

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

Petition: 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)

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

IN BEHALF OF PETITIONER: Self-represented

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

Myron L. Rosenberg

for Robert P. Wiemann, Acting 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 naturalized citizen of the United States, who had one previous marriage. The beneficiary is a native and citizen of Sri Lanka. The director determined that the petitioner had not established that she and the beneficiary personally met within two years prior to the petition's filing date. Further, the petitioner did not submit a copy of her final divorce decree and a completed Biographic Information (Form G-325A) pertaining to and signed by her fiance.

On appeal, the petitioner states that she does not understand why the petition was denied and requests that the Service tell her what to do to get her fiance here in the States.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancee" 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 entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancee petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide 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...

The petition was filed with the Service on January 25, 2000. Therefore, the petitioner and the beneficiary must have met in person between January 26, 1998 and January 25, 2000.

The Petition for Alien Fiance(e) (Form I-129F) indicates that the petitioner and beneficiary have not personally met. Since the petitioner had not met the beneficiary in person within two years of the petition's filing date, the director denied the petition.

Absent a personal meeting, the Attorney General may waive the requirement that the parties have previously met. According to the regulation at 8 C.F.R. 214.2(k)(2), the director may exempt the petitioner from this requirement only if it is established that compliance would:

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice....

The petitioner states that she has not met her fiance because she is working two jobs and unable to get the time off to personally meet him. However, employment responsibilities, getting time off and other difficulties involved in traveling abroad as required for compliance with the statutory requirement do not constitute extreme hardship.

Further, the petitioner has not submitted a copy of her final divorce decree between herself and [redacted] Consequently, the petitioner has not established that her previous marriage has been legally terminated. Also, Form G-325A must be completed and signed by her fiance.

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.

ORDER: The appeal is dismissed.