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

D4

PUBLIC COPY

File: Office: NEBRASKA SERVICE CENTER Date: FEB 13 2001

IN RE: Petitioner:
Beneficiary:

identification data deleted to prevent clearly unwarranted invasion of personal privacy

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)

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

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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Sudan, as the fiance(e) 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 and the beneficiary had not previously met in person, as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner, or unique circumstances.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" 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 March 27, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 27, 1998 and ended on March 27, 2000.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and the beneficiary had met, but did not provide any details. Therefore, on May 22, 2000, the director requested that the petitioner submit a statement about when the petitioner and the beneficiary had previously met. In response, the petitioner stated that he last met the beneficiary in July of 1997 during their engagement party, but that he made an agreement with the beneficiary's family that he and the beneficiary would not marry until after the beneficiary graduated from college in May of

2000. The petitioner also submitted a letter from an [redacted] regarding the customs for engagements in the Islamic faith. The director denied the petition on August 7, 2000 because the meeting between the beneficiary and the petitioner had not occurred within the required two-year period before the filing of the petition.

On appeal, the petitioner states that even though Sudan is a dangerous country, he traveled to visit the beneficiary in Sudan during July and August of 2000. The petitioner presents evidence of his travel to Sudan, which includes a copy of his flight itinerary, his airline ticket stub, a copy of his passport with the entrance and exit stamps from Sudanese immigration, and photographs of the petitioner and the beneficiary together.

The evidence that the petitioner submits on appeal concerning the meeting that took place between the petitioner and the beneficiary is not persuasive in overcoming the director's objections.

Section 214(d) of the Act specifically requires the petitioner to prove that he and the beneficiary had met in person in the two-year period before filing the petition. In the instant case, the relevant two-year period is March 27, 1998 to March 27, 2000. According to evidence the petitioner submits on appeal, the petitioner and beneficiary met in July of 2000, nearly 4 months after the filing of the petition.

As the meeting between the petitioner and the beneficiary did not occur until after the petition was filed, the appeal must be dismissed. Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice, and the petitioner may file a new I-129F petition now that he and the beneficiary have met in person.

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.