



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



FEB 22 2001

File:  Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



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

**PUBLIC COPY**

*identification 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

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 the People's Republic of China (China), 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 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 entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancée 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 20, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 20, 1998 and ended on March 20, 2000.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and the beneficiary met in person in 1997 when the petitioner visited China to visit his sick mother. As the meeting between the two parties occurred prior to March 20, 1998, the director requested that the petitioner submit a statement along with any evidence to explain why the petitioner and the beneficiary had not met each other within the two-year period required by the statute. In response, the petitioner stated that on the advice of an Immigration Officer, he waited until he became a U.S. citizen to

submit the I-129F Petition. Citing that the meeting between the beneficiary and the petitioner had not occurred within the required two-year period before the filing of the petition, the director denied the petition on June 16, 2000.

On appeal, the petitioner states that he flew to China at the end of June of 2000 to meet the beneficiary. As evidence, the petitioner submits a copy of his airline ticket and a copy of his passport that contains an entrance and exit stamp from Chinese immigration.

The evidence the petitioner submits on appeal 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 20, 1998 to March 20, 2000. The petitioner submits evidence on appeal that establishes that he was in China at the end of June of 2000; however, this visit to China occurred after the filing of the petition, not in the required two-year period before the filing the petition. Moreover, although the petitioner claimed that he met the beneficiary while he was in China, the petitioner did not submit any documentary evidence, such as photographs of him and the beneficiary together, to substantiate his claim that a meeting between the two parties took place. Evidence of the petitioner's mere presence in China does not establish that he and the beneficiary actually met.

As a meeting between the petitioner and the beneficiary did not take place within the two-year period prior to the filing of the petition, the director's denial is affirmed. 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 if he can establish through documentary evidence, such as photographs of the beneficiary and him together, 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.