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: VERMONT SERVICE CENTER Date: JAN 3 1 2001

IN RE: Petitioner:
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)

PUBLIC COPY

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

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

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont 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 India, 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 May 15, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 15, 1998 and ended on May 15, 2000.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that she and beneficiary had personally met in 1994 at the home of the beneficiary's brother; however, because this meeting took place prior to the required two-year period, the director denied the petition.

On appeal, the petitioner states that it would be a financial hardship for her to travel to the Democratic Republic of the Congo (DRC), and even she could travel, it would be dangerous due to

ongoing civil strife in that country.

Pursuant to 8 C.F.R. 214.2(k)(2), a district director may exercise discretion and waive the requirement of a personal meeting between the two parties 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 first issue that the petitioner raises on appeal is the safety of travel to the DRC. The United States Department of State publishes travel warnings and public information sheets for U.S. citizens through the Consular Affairs internet web site at http://travel.state.gov. Travel Warnings are issued when the State Department decides, based on all relevant information, to recommend that Americans avoid travel to a certain country. Public Announcements are a means to disseminate information about terrorist threats and other relatively short-term and/or trans-national conditions posing significant risks to the security of American travelers.

The Department of State has had a long-standing travel warning for the DRC, and does not recommend that U.S. citizens travel to that country. Nevertheless, it is not necessary for the petitioner to travel to the DRC. The language in the statue does not require the petitioner to visit the beneficiary in the beneficiary's country of residence. The statute only requires an in-person meeting between the petitioner and the beneficiary, which can take place in any country. There is no evidence in the record that the petitioner and the beneficiary have attempted to meet in a third country, if travel to the DRC for the petitioner and travel to the U.S. for the beneficiary is problematic.

The final issue that the petitioner raises on appeal is the general financial hardship associated with travel to a foreign country to meet the beneficiary. Financial difficulties, by themselves, do not constitute extreme hardship. The lack of sufficient funds to purchase an airline ticket or travel to another country does not qualify the petitioner for an extreme hardship waiver.

The petitioner has failed to establish that she and the beneficiary have personally met as required by section 214(d) of the Act, and that extreme hardship or unique circumstances qualify her for a waiver of the statutory requirement. 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 after she 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.