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: TEXAS SERVICE CENTER Date: MAR 15 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)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

Identification data deleted to prevent [illegible] 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

Cyndia L. Rosenberg

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas 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. The petitioner had claimed that he is unable to visit the beneficiary in South Africa, the place of the beneficiary's residence, because of the financial strain it would cause him.

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 June 27, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 27, 1998 and ended on June 27, 2000.

On the Petition for Alien Fiance(e) (Form I-129F), the petitioner specified that he and beneficiary had not personally met because it would be a terrible financial strain on him to travel to South Africa to meet the beneficiary. The petitioner clarified that he is in the process of paying off considerable debt and that he could not afford to take time away from his job. As the petitioner and

the beneficiary had not met within the required two-year period, the director denied the petition.

On appeal, the petitioner again reiterates that it would be a financial hardship for him to travel to South Africa. The petitioner further states that he knows the beneficiary's family and as an American citizen, the petitioner has a right to marry whomever he chooses. The petitioner submits copies of his credit card statements in support of his argument that his debts do not enable him to travel.

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 issue that the petitioner has raised throughout the processing of his petition 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 Service agrees with the petitioner that he has the right to marry whomever he chooses. The Service is not denying the petitioner the ability to marry the beneficiary, but simply denying the beneficiary entry into the U.S. pursuant to a K-1 visa. If the petitioner and the beneficiary were to meet in any country, the Service could not, and would not, prevent them from marrying.

The petitioner has failed to establish that he 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 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.