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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
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Washington, D.C. 20536

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prevent clearly unwarranted  
invasion of personal privacy

File: [REDACTED] Office: NEBRASKA SERVICE CENTER  
(LIN 02 052 52922 relates)

Date: JAN 14 2003

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)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that 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 that 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 that 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, 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 petition will be considered moot and 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 personally met within two years before the date of filing the petition, 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 Act 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 fiance(e) 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 bona fide 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. . . .  
[emphasis added]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on December 19, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 19, 1999 and ended on December 19, 2001.

With the initial filing of the petition, the petitioner indicated that he and the beneficiary had personally met. In response to the director's request for additional information and evidence concerning the parties' last meeting, the petitioner submitted copies of his passport pages indicating that he travelled to India in January 2002 to meet the beneficiary. The director found that the personal meeting between the petitioner and the beneficiary, which occurred after December 19, 2001, was not within the two-year period before the filing date of the petition and denied the application accordingly.

On appeal, the petitioner submits a letter stating that he had initially planned to travel to India to meet the beneficiary on September 15, 2001, but was unable to do so because of the events of September 11, 2001 and United States Department of State travel warnings concerning hostilities between India and Pakistan. He also asserts that the beneficiary is Tamil and that in the Tamil community, arranged marriages are customary and it is prohibited for a bride to meet the groom until after marriage. He further states that he travelled to India in January 2002 and that during his trip, he and the beneficiary were legally married.

Now that the petitioner and beneficiary are legally married, the petition for alien fiance(e) is moot and the appeal will be dismissed. The petitioner must now file a Petition for Alien Relative (Form I-130) on behalf of the beneficiary in accordance with the regulations and instructions regarding such petitions.

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 petition is moot. The appeal is dismissed.