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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

File: [redacted] Office: California Service Center Date: AUG 19 2003
(WAC 02 255 52299 relates)

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for Alien Fiancé(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

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 Bureau of Citizenship and Immigration Services 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Korea, as the fiancée 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, finding that the petitioner had failed to submit evidence that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act.

Section 101(a)(15)(K) of the Act defines "fiancé(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 fiancé(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 . . . .

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with the Bureau on August 12, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 12, 2000 and ended on August 12, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had personally met. In response to the director's request for evidence and information concerning the parties' last meeting, the petitioner submitted: (1) copies of the petitioner's telephone bills showing calls made to Korea and dating from July 2002, and (2) a list of people who will testify to the relationship between the petitioner and beneficiary. Because the evidence submitted failed to establish that the petitioner and beneficiary had personally met, the director denied the petition.

On appeal, the petitioner submits a letter asserting that he met and dated the beneficiary while she was in the United States as a

student from July 1999 through June 2002. However, he has provided no documentary evidence to establish that claim. He merely states that they lived close to one another for two years and provides a map of the Los Angeles area where their apartments were located. The petitioner questions why his witnesses have not been contacted and provides an additional list of people who can substantiate that he has a loving relationship with the beneficiary. The petitioner further explains that he has no photographs showing him and the beneficiary together because he does not take photographs of the important events in his life.

The record of proceeding fails to contain documentary evidence that the petitioner and beneficiary personally met within the time period specified in § 214(d) of the Act, or that extreme hardship or unique circumstances exist to qualify him for a waiver of the statutory requirement. The petitioner's assertions that the beneficiary was in the United States during the two-year period prior to filing date of the petition do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Therefore, the appeal will be dismissed.

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.