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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

[redacted]

File: [redacted] Office: Texas Service Center Date: JUL 31 2003
(SRC 02 128 52269 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

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, Texas Service Center, and is now on appeal before the Administrative Appeals Office (AAO). 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 Mexico, 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 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.

8 C.F.R. § 214.2(k)(2) states, in pertinent part:

> *Requirement that petitioner and beneficiary have met.* The petitioner shall establish to the satisfaction of the director that the petitioner and beneficiary have met in person within the two years immediately preceding the filing of the petition.

Pursuant to 8 C.F.R. § 214.2(k)(2), a 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 regulation does not define what may constitute extreme hardship to a petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with the Bureau on March 15, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 15, 2000 and ended on March 15, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had never personally met, but that he intended to travel to Mexico to meet the beneficiary after having filed the petition. On appeal, the petitioner submits evidence of his travel to Mexico from March 21, 2002 to March 29, 2002.

It is important to emphasize that all requirements must be met at the time of the filing and the regulation requires the petitioner to prove that he last met the beneficiary no more than two years ***prior*** *to* the filing date of the petition. In the instant case, the relevant two-year period is March 15, 2000 to March 15, 2002. The evidence submitted on appeal reflects that the petitioner visited the beneficiary in March 2002, one week *after* having filed the petition. Although the petitioner and beneficiary have now met, the meeting did not occur within the relevant two-year period. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Now that the petitioner and the beneficiary have met, the petitioner may file a new I-129F petition in the beneficiary's behalf so that the two-year period in which the parties are required to have met will apply.

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.