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U.S. Department of Homeland Security

Citizenship and Immigration Services

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



File: [REDACTED] Office: California Service Center
(WAC 02 202 50989 relates)

Date: SEP 23 2003

IN RE: Petitioner:
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 Citizenship and Immigration Services (CIS) 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 The decision of the director will be withdrawn. The record will be remanded to the director for further action and consideration.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of China, 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 at § 214.2(k)(2) 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) on June 17, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 17, 2000 and ended on June 17, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had initially contacted one another by computer and that they had personally met when he flew to Shenzhen, China, where he stayed for two weeks. In response to the director's request for additional documentation and information concerning the parties' last meeting, the petitioner submitted a

copy of a visa issued to him to visit China, valid from June 18, 2001 through September 18, 2001, and a copy of a passport page showing entry and exit stamps showing travel to China from July 2, 2001 through July 21, 2001.

The director denied the petition, finding that "no documentary evidence was submitted confirming that the petitioner and the beneficiary had met" within the required two-year period.

On appeal, the petitioner states:

I have found the airline ticket. Plus I think I sent the wrong form on my passport. Plus I love this girl and how often do you find a Chinese girl that is a Christian.

No documentation was submitted in support of the appeal.

After reviewing the record, the AAO is inclined to sustain the petitioner's appeal, finding that the petitioner has submitted sufficient evidence of his having met the beneficiary within the required two-year period. However, the petition is otherwise incomplete. The Form G-325, Biographic Information sheet, contained in the record was not properly executed, as it was signed by the petitioner, not by the beneficiary.

Therefore, the decision of the director will be withdrawn. The record will be remanded to the director to request the petitioner to submit a properly executed Form G-325 signed by the beneficiary. In addition, the director may request the petitioner to submit additional documentation to be included in the record, such as a full copy of the petitioner's passport, including the identification page, a copy of his airline ticket, and/or any additional evidence he may have concerning his travel to China. The director shall enter a new decision which, if adverse to the applicant, will be certified to the AAO for review.

ORDER: The director's decision is withdrawn. The record is remanded to the director for further action and consideration. The director shall enter a new decision which, if adverse to the applicant, will be certified to the AAO for review.