



U.S. Citizenship  
and Immigration  
Services

(b)(6)




Date: **AUG 06 2014**

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

Petitioner: 

Beneficiary:

PETITION:

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

ON BEHALF OF PETITIONER:

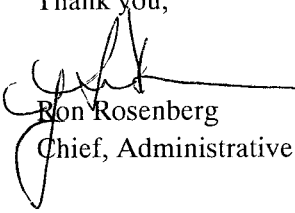
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg

Chief, Administrative Appeals Office

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

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Indonesia, as the fiancée of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the petitioner failed to establish that he met the beneficiary in person during the two-year period immediately before the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement, and had not submitted other required evidence.

*Applicable Law*

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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 except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice. Failure to establish that

the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

The regulation does not define what may constitute extreme hardship to the 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. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

#### *Factual and Procedural History*

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services on February 6, 2013. Therefore, the petitioner and the beneficiary were required to have met in person between February 6, 2011 and February 6, 2013. The director issued a Notice of Intent to Deny (NOID) seeking of, among other things, evidence of the personal meeting between the petitioner and the beneficiary between February 6, 2011 and February 6, 2013, or evidence that the personal meeting would have been an extreme hardship to the petitioner or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. In response to the NOID, the petitioner submitted a letter stating that his last trip to visit the beneficiary was on October 8, 2013. The submitted boarding pass and baggage claim ticket show travel on October 8 from [REDACTED] Japan, to [REDACTED] Colorado. The petitioner also submitted a passport-style photograph of the beneficiary<sup>1</sup>, his birth certificate, a letter stating that he is a railroad employee and his fiancée is a teacher, and a letter stating his intent to marry his fiancée on June 2014 in the United States. In denying the petition, the director stated that the petitioner failed to provide evidence of having met the beneficiary within the requisite period and had not submitted other required evidence.

On appeal, the petitioner stated that he previously submitted passport-style photographs and the Biographic Information, Form G-325, and would like to marry the beneficiary in the United States during her spring break. The petitioner submitted photographs and evidence of travel to Indonesia, and his fiancée's Form G-325 and her education and job history. Evidence of the petitioner's travel is a boarding pass from [REDACTED] Japan, to [REDACTED] Indonesia, and an Indonesian "visa on arrival" receipt and arrival stamp dated October 3, 2013.

#### *Analysis*

The petitioner and the beneficiary are required to meet in person within the two-year period before the filing date of the petition or submit evidence showing that the personal meeting would have been an extreme hardship to the petitioner or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. Section 214(d)(1) of the Act. In this case, the petitioner has not provided evidence of having personally met the beneficiary between February 6, 2011, and February 6, 2013 and he has not submitted any evidence that the personal meeting would

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<sup>1</sup> The submitted photograph of the petitioner is not a passport-style photograph because it is too large.

have been an extreme hardship to the petitioner or would have violated the beneficiary's strict and long-established customs, foreign culture, or social practice. In addition, the record does not contain a proper passport-style photograph of the beneficiary, evidence from the beneficiary of her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status, and a Form G-325A for the petitioner.

*Conclusion*

The burden of proof in fiancé(e) visa petition proceedings rests solely with the petitioner. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. The dismissal of this appeal is not without prejudice to the filing of a new Form I-129F petition on the beneficiary's behalf now that the petitioner and beneficiary have met.

**ORDER:** The appeal is dismissed. The petition remains denied.