U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

Date: JAN 13 2015 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 (director), denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and 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 Laos, 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 and the beneficiary met in person within the two-year period immediately preceding the filing of the petition. On appeal, the petitioner submits a statement and additional 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 his 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 . . . 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.

Facts and Procedural History

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on April 23, 2014. Therefore, the petitioner and the beneficiary were required to have met in person between April 23, 2012 and April 23, 2014.

On the Form I-129F, the petitioner indicated that he met the beneficiary within two years immediately preceding the filing of the petition but failed to submit evidence of this alleged meeting. The director issued a Request for Evidence (RFE), dated May 23, 2014, and asked the petitioner to submit evidence that he met the beneficiary in person within the requisite time period. In response, the petitioner submitted evidence that he visited the beneficiary in Viet Nam in June, 2014, after the requisite period.

On appeal, the petitioner submits evidence about the marriage traditions of the Hmong.

Analysis

We review the evidence *de novo.*

Although the petitioner presented evidence that he visited the beneficiary in Vietnam in June, 2014, the meeting was not within the requisite time period. As stated at section 214(d)(1) of the Act, the relevant time period in which the personal meeting between the petitioner and the beneficiary must occur is within the two-year period immediately preceding the filing date of the petition. Here, the couple met subsequent to this time period.

The petitioner does not seek a waiver of the requirement of a personal meeting. The evidence presented by the petitioner does not demonstrate that he is eligible for a waiver of the meeting requirement. The director's decision to deny the petition is, therefore, affirmed.

Beyond the decision of the director, the petitioner states that after he and the beneficiary became engaged, that they exchanged wedding bands, and took a short honeymoon. The petitioner refers to the beneficiary as his wife. If the beneficiary and the petitioner have already married, they are not legally able to conclude a valid marriage within 90 days of the beneficiary's arrival into the United States. In visa petition proceedings, the law of a foreign country is a question of fact which must be proved by the petitioner if he relies on it to establish eligibility for an immigration benefit. *Matter of Annang,* 14 I&N Dec 502 (BIA 1973). Section 214(d)(1) of the Act requires the submission of evidence to establish that the petitioner and the beneficiary are "legally able . . . to conclude a valid marriage in the United States. . . ." In any further proceedings, the petitioner must establish that he is not legally married under the laws of Laos.

Conclusion

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the required time period and the petitioner is not exempt from such a requirement. Consequently, the instant petition must remain denied and the appeal is, therefore, dismissed. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

The burden of proof in these 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed and the petition remains denied.