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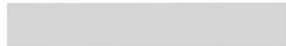
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



DATE: **MAY 20 2015** Office: VERMONT SERVICE CENTER



IN RE:                      Petitioner: [Redacted]  
                                 Beneficiary: [Redacted]

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,

A handwritten signature in black ink, appearing to be "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the petition for an alien fiancé(e), and the matter is now before the Administrative Appeals Office (AAO) on appeal. 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 Cambodia, 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 petition for an alien fiancé(e) because the petitioner failed to establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement. On appeal, the petitioner submits a statement.

*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.

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or the applicant does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

#### *Facts and Procedural History*

The petitioner filed the fiancé(e) petition with USCIS on August 28, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between August 28, 2010 and August 28 2012.

On the petition form, the petitioner indicated "yes" to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition. The petitioner stated that he first met the beneficiary during his visit to Cambodia in 2010. On March 11, 2013, the director issued a request for evidence advising the petitioner to submit evidence of having met the beneficiary in person during the required time period or evidence that he was entitled to a waiver of the meeting requirement based on extreme hardship. The petitioner, in response, provided a copy of his Cambodian passport reflecting travel and photographs of himself and the beneficiary during June 3, 2010 through July 19, 2010.

On May 9, 2013, the director denied the petition as the petitioner did not establish that he and the beneficiary had met within the two years immediately preceding the filing of the petition or that meeting the beneficiary in person would cause extreme hardship to the petitioner.

#### *Analysis*

On appeal, the petitioner asserts that due to the burdens of his education, his finances and his attempts to secure employment, it would have caused him extreme hardship to meet the beneficiary within the two years prior to filing the petition. The applicant asserts that he was a sophomore in college when he returned from Cambodia on July 19, 2010 and was studying to obtain his bachelor's degree in September 1, 2012. However, the record contains a letter from a registrar for the University of [REDACTED] evidencing the petitioner's attendance at the university from September 3, 2008 through August 19, 2011; and a letter dated July 1, 2011, from a state senator for [REDACTED] congratulating the petitioner on his recent graduation from the University of [REDACTED].

The applicant also contends that he could not afford to travel to Cambodia as he was a college student with student loans and credit card debts, and that if he had traveled to visit the beneficiary, he would have forfeited the possibility of finishing his education and finding a job in his chosen field to repay these debts. The applicant asserts that traveling to Cambodia, the place of the beneficiary's residence, is expensive. It is noted that the two-year meeting requirement of section 214(d)(1) of the Act does not require the petitioner and beneficiary to meet in Cambodia.

The petitioner submits copies of some of his bank statements from August 12, 2010 through October 11, 2012 and billing statements for his student loans<sup>1</sup> dated June 22, 2012, August 23, 2012 and January 23, 2013. The applicant asserts that he was previously employed part-time as a medical interpreter, but secured a temporary position at a biotechnology company, [REDACTED]. The record contains a letter from the applicant's employer confirming that he has been employed since January 7, 2013. As such, the applicant's employment at [REDACTED] postdates the two years span prior to the filing of his Form I-129, extending from August 28, 2010 to August 28, 2012. Further, as noted, the record does not indicate that the applicant was attending school between August 20, 2011 and August 28, 2012. Overall, the record does not contain sufficient supporting documentation indicating that the applicant's financial, educational and vocational constraints during the requisite period are such that he would have experienced extreme hardship in meeting the beneficiary.

The evidence in the record reflects that the beneficiary and the petitioner have already met; however, that meeting fell outside the two-year period preceding the filing of the petition. The evidence provided by the petitioner does not establish that he would have suffered extreme hardship had he traveled to meet the beneficiary in Cambodia or another country subsequent to his 2011 college graduation. The petitioner has not demonstrated that he merits a favorable exercise of discretion to exempt him from the in-person meeting requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

### *Conclusion*

<sup>1</sup> The monthly payments for the petitioner's subsidiary and unsubsidized loans totaled \$92.12.



The appeal will be dismissed for the above stated reasons. In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. 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. 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.

**ORDER:** The appeal is dismissed.