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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: [Redacted]

Office: VERMONT SERVICE CENTER

Date:

MAY 21 2001

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 Service 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Roseley
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations 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 Cuba, as the fiance(e) 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 met in person within two years 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.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who 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 entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancée petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have **previously met in person within two years before the date of filing the petition**, have a bonafide 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...
[emphasis added]

The Petition for Alien Fiance(e) (Form I-129F) was filed with the Service on August 3, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 3, 1998 and ended on August 3, 2000.

The record contains evidence that the petitioner and the beneficiary had known each other in Cuba and had lived together in Cuba for approximately 3 years. According to the applicant, she left Cuba in 1990, but returned to Cuba in 1995 and 1997. The record contains photographs of the petitioner and the beneficiary together during the petitioner's 1995 and 1997 visits to Cuba. Although the petitioner and the beneficiary have met, the director

denied the petition because the last meeting between the two parties in 1997 was prior to the August 3, 1998 through August 3, 2000 period.

On appeal, the petitioner states that it was a financial hardship for her to travel to Cuba during the August 1998 through August 2000 period. The petitioner also states that the beneficiary was unable to obtain a visa to visit her in the United States. The petitioner maintains that she and beneficiary have spoken on the telephone and that they desire to be married.

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 issue that the petitioner raises on appeal is the general financial hardship associated with travel to a foreign country to meet the beneficiary. Financial difficulties, by themselves, do not constitute extreme hardship. The lack of sufficient funds to purchase an airline ticket or travel to another country does not qualify the petitioner for an extreme hardship waiver.

The petitioner has failed to establish that she and the beneficiary have personally met within two years before the date of filing the petition as required by section 214(d) of the Act, and that extreme hardship or unique circumstances qualify her for a waiver of the statutory requirement.

Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new I-129F petition.

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.