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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 E. Street N.W.  
9th Floor  
Washington, D.C. 20536

[Redacted]

File: [Redacted] Office: VERMONT SERVICE CENTER Date: MAY 13 2002

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

Petition: Petition for Ajeu Flacoete Pursuant to Section 102(a)(15)(K) of the Immigration and  
Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER:

[Redacted]

PUBLIC COPY

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)(C).

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

Robert P. Wismann, 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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cambodia, 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 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 that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

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 fiance 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 fiance(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 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 petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on October 11, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 11, 1999 and ended on October 11, 2001.

With the initial filing of the petition, the petitioner submitted a letter indicating that she has not met the beneficiary in person but has talked with him on the telephone and communicated by mail. She stated that her engagement with the beneficiary was arranged by her parents according to long-standing Cambodian tradition and culture and that because she wishes to honor and respect this tradition, the in-person meeting requirement should be waived.

On appeal, counsel submits documentation including a letter from the petitioner, an affidavit from the petitioner's aunt, and an affidavit from the president of the Revere Buddhist Community, Inc., Revere, Massachusetts. The petitioner indicates in her letter that she first learned of her engagement from her aunt on April 13, 2001, that since that time she has not met the beneficiary, and that to do so would result in an extreme hardship to her, her family, and her business affairs. Other than this generalized statement, no explanation or evidence as to the specific hardships that would result to the petitioner from her failure to meet the beneficiary has been submitted.

The affidavit submitted from the petitioner's aunt indicates that the aunt, the beneficiary, and the beneficiary's parents agreed on April 13, 2001 that the petitioner and beneficiary were to be married at a date, time, and place to be determined later. The aunt states that such marriage agreements and commitments are traditions of the ancient Khmer culture. However, there is no statement contained in the aunt's affidavit to establish that a personal meeting of the petitioner and beneficiary would violate strict and long-established customs of the Cambodian/Khmer culture or social practice. Rather, the affidavit merely indicates that arranged marriages are a Khmer tradition. Similarly, the affidavit submitted from the president of the Revere Buddhist Community, Inc., simply states that arranged marriages are a common practice in Cambodian culture and that it is not unusual for the engaged parties to not meet until long after their parents have made marriage agreements and commitments.

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.

In the instant case, the petitioner's stated reasons for needing a waiver are not persuasive. Her claim that a personal meeting with the beneficiary within the required time frame would result in extreme hardship to her has not been substantiated. In addition, she has submitted no evidence to establish that a personal meeting between her and the beneficiary would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petitioner has failed to establish that she and the beneficiary have personally met within the time period specified in section 214(d) of the Act, or that she warrants a waiver of the statutory requirement as a matter of discretion.

Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner and the beneficiary meet in

person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that she and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the requisite two-year period, the petition may not be approved unless the director grants a waiver of that requirement.

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.