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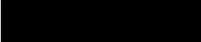
U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE

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prevent clearly unwarranted
invasion of personal privacy**

425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



File:  Office: Vermont Service Center

Date: **AUG 19 2003**

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). 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 the Ivory Coast, as the fiancée 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. The director further found that the petitioner had failed to establish that he warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Act defines "fiancé(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 admission.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), 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 two 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

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) on September 27, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 27, 2000 and ended on September 27, 2002.

With the initial filing of the petition, the petitioner indicated in response to Question #19 on the Form I-129F that he and the beneficiary had last met in 1997 while on vacation in Senegal. He stated that he had intended to travel to the Ivory Coast, where the beneficiary resides, in December 1999 in order to complete the necessary ceremonies for their engagement. However, he was prevented from traveling due to an attempted coup d'état in that country. The petitioner explained that he proceeded with engagement discussions through the beneficiary's aunt, who acted as an intermediary between the families of both parties in the United States and the Ivory Coast. The petitioner stated that the

engagement was "finalized" in August 2000 and "celebrated" in June 2001. Prior to filing the instant petition, the petitioner purchased an airline ticket for travel to the Ivory Coast. However, another attempted coup d'état made travel impossible.

In a Notice of Intent to Deny, the director noted that the petitioner was not required to travel to the Ivory Coast to meet the beneficiary, and that the parties were not precluded from meeting in a third country.

In response to the director's notice, the petitioner provided a statement from the beneficiary's father explaining that according to the family's customs, as Baoulé ethnics belonging to the Akan group, the petitioner and beneficiary were precluded from meeting prior to the celebration of their engagement.

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 regulation at section 214.2(k)(2) does not define what may constitute extreme hardship to a 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. Examples of such circumstances may include, but are not limited to, serious medical conditions or hazards to U.S. citizens to travel to certain countries.

In the instant case, the petitioner has not provided sufficient documentary evidence to establish that he warrants a favorable exercise of discretion to waive the statutory requirement. Based on the information provided, the petitioner and beneficiary could have met in a third country subsequent to the celebration of their engagement in June 2001, and prior to the filing of the petition on September 27, 2002.

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.