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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street N.W.  
Washington, D.C. 20536



File: [Redacted] Office: Vermont Service Center

Date: OCT 28 2003

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

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 Citizenship and Immigration Services (CIS) 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.

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 Jamaica, as the fiancé 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 she 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 April 5, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 5, 2000 and ended on April 5, 2002.

With the initial filing of the petition, the petitioner indicated that she and the beneficiary had personally met when she traveled to Jamaica for her Grandmother's funeral. In response to the director's request for additional information and evidence concerning the date and place of the parties' last meeting, the petitioner stated that she had last met the beneficiary in Jamaica in August 1997. She stated that she had not been able to meet the beneficiary during the two years prior to filing the petition due to her employment.

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 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 support of her appeal, filed on October 16, 2002, the petitioner submits a letter stating:

There are several reasons why I have not been able to travel these last few years. As a single parent, I was unable to leave my son without extensive coordination, however once the process started, a trip to Jamaica was always eminent for the latter part of this year. As it turns out, I received a promotion in August that required me to change/adjust my vacation schedule per that department's standards. After submitting a new request for vacation, I was approved for vacation in October.

The petitioner also submits evidence that she traveled to Jamaica from October 11, 2002 through October 14, 2002.

It is important to emphasize that the regulation at § 214.2(k)(2) requires the petitioner to prove that she last met the beneficiary no more than two years prior to the filing date of the petition. In the instant case, the relevant two-year period is April 5, 2000 to April 5, 2002. The evidence submitted reflects that the petitioner visited the beneficiary in August 1997, more than two years prior to filing the petition, and again in October 2002, six months after having filed the petition. Although the petitioner and beneficiary have met, their meetings did not occur within the relevant two-year period.

Furthermore, the petitioner has failed to establish that her failure to comply with the statutory requirement would result in extreme hardship to her. The time and expense involved in traveling to a foreign country, and the arrangements required for that travel, are normal difficulties encountered in complying with the requirement and are not considered extreme hardship.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Now that the petitioner and the beneficiary have again met, the petitioner may file a new I-129F petition in the beneficiary's behalf so that the two-year period in which the parties are required to have met will apply. The petitioner should submit evidence that he 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 such 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 met that burden.

**ORDER:** The appeal is dismissed.