

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Handwritten initials/signature

[Redacted]

FILE: [Redacted]
EAC 02 088 54027

Office: VERMONT SERVICE CENTER

Date: APR 28 2004

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

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Handwritten signature of 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 Angola, 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 had not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *See* Decision of the Director, dated January 22, 2003.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from this requirement for a meeting if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the 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.

The regulation at section 214.2 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 petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with the Immigration and Naturalization Service [now Citizenship and Immigration Services] on January 28, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 28, 2000 and ended on January 28, 2002.

On the Form I-129F petition, the petitioner indicated that he and the beneficiary had not previously met one another. *See* Form I-129F Petition, Question #19, dated January 28, 2002. In response to the director's request for evidence of hardship or violation of a strict and long established custom, the petitioner submitted a letter dated May 10, 2002. The letter explains the marriage customs of the Bakongo people, but does not assert that the petitioner and the beneficiary are prohibited from meeting based on custom or practice. Further, the letter indicates that the petitioner underwent surgery, in August 2001, to amputate his right leg.

On appeal, the petitioner states that Angola experienced civil war from 1975 until 2002. As a result of his education in the United States, the petitioner was fearful that if he returned to Angola during that period, he would risk harm at the hands of the "Soviet/Cuban dictatorship." *See* Letter from [REDACTED] dated February 27, 2003. Further, the petitioner states that he was diagnosed with cancer in 1994 and has been receiving treatment for his disease since that time. According to the petitioner, part of his treatment for cancer was the aforementioned amputation of his right leg in 2001. *Id.*

The AAO notes that section 214(d) of the Act requires that the petitioner and the beneficiary meet; it does not require the petitioner to travel to the beneficiary's home country. The record does not demonstrate any efforts by the petitioner and/or the beneficiary to explore additional meeting options including travel to a bordering country. The record does not establish that the petitioner is unable to travel to a bordering country or that the beneficiary has attempted to obtain a visitor visa to travel to the United States or a bordering country.

The director also noted that the submitted Form G-325A for the beneficiary bears the signature of the petitioner rather than the signature of the beneficiary. On appeal, the record does not contain a correctly completed, signed Form G-325A for the beneficiary.

The evidence of record does not establish that the petitioner and beneficiary met as required. The record does not establish that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO finds that the petitioner has not submitted credible documentary evidence to establish the fiancée relationship within the meaning of section 101(a)(15)(K) of the Act. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.