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DEC 02 2004

FILE: [Redacted]  
EAC 03 210 50207

Office: VERMONT SERVICE CENTER

Date:

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.

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 Cambodia, 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. *Decision of the Director*, dated December 18, 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 July 15, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 15, 2001 and ended on July 15, 2003.

In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner failed to submit evidence of having met the beneficiary during the two-year period immediately preceding the filing of the Form I-129F petition.

On appeal, the petitioner submits three letters explaining Khmer cultural traditions to support his assertion that he and the beneficiary are unable to meet before becoming married. *Form I-290B*, dated January 14, 2004.

The submitted letters indicate that Khmer tradition dictates that a husband is chosen for a woman by her parents. The letters state that a daughter who selects her own husband will be disowned and disinherited from her family's assets. The letters assert that according to Cambodian custom, the bride's family and the groom's family meet to discuss a wedding proposal and all should be in agreement before continuing to plan the wedding. *See Letter from Venerable Vorn Yen*, dated January 4, 2004. *See also Letter from Soeum Ok*, dated January 3, 2004. The petitioner also submits a letter from his stepsister that further asserts that before becoming engaged, a couple is not allowed to go out and take photographs together. The petitioner's stepsister indicates that a bride must be accompanied by her parent or elder sibling when going out. *Letter from Sovann Ou*, dated January 5, 2004.

The AAO notes that the submitted letters do not establish that the petitioner and the beneficiary were unable to meet during the required two-year period. Even if the petitioner and the beneficiary were prohibited from going out alone together and from taking photographs as contended by the petitioner's stepsister, the record fails to demonstrate that the couple could not meet one another in the presence of family members.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between July 15, 2001 and July 15, 2003. The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find 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. 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.