



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
WAC 03 102 51729

Office: CALIFORNIA SERVICE CENTER

Date: FEB 02 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

**PUBLIC COPY**

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, California 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 of Iraq and citizen of Greece, 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 had not offered documentation evidencing that she 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.

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 February 10, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 10, 2001 and ended on February 10, 2003.

In response to Question #19 on the Form I-129F, the petitioner indicated that she and the beneficiary had personally met. In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner submitted 23 envelopes addressed to the beneficiary in Greece; a letter written by the petitioner, dated June 20, 2003; a letter from the pastor of St. Michael Chaldean Catholic Church in El Cajon, California, dated June 23, 2003; a letter from the TMJ Therapy Centre, dated June 23, 2003; a letter from a physician treating the petitioner's father, dated June 18, 2003; a letter from a physician treating the physician's mother, dated December 5, 2002 and two letters verifying the petitioner's employment, dated June 13, 2003.

On appeal, the petitioner states that she believes she has met the standards of extreme hardship and long established custom as evidenced by the submitted documentation.

While the petitioner contends that she and her parents are unable to travel to Greece to meet the beneficiary owing to various medical conditions and the doctrine of the Chaldean Catholic faith, the petitioner fails to establish that she and the beneficiary cannot meet through any other means. The record establishes that the petitioner and the beneficiary share a history marked by lengthy periods of time spent together. The petitioner states that she and the beneficiary "went to college together for many years." Further, she "spent 10 months with him in Greece." *See* Petition for Alien Fiancé(e), Form I-129F, received February 10, 2003. The record does not establish that the petitioner and the beneficiary could not have met within the required two-year period without imposing extreme hardship to the petitioner or violating long-established customs of the Chaldean Catholic faith. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the two-year meeting requirement imposes extreme hardship on the petitioner. 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.