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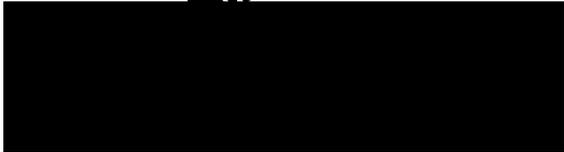
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U.S. Department of Homeland Security  
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Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

D6



FILE: [REDACTED] WAC 02 218 51130

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

MAR 04 2004

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, 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 and citizen of Vietnam, 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 July 30, 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 (CIS)] on June 26, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 26, 2000 and ended on June 26, 2002.

In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner submitted a copy of the petitioner's itinerary for a trip from Los Angeles, CA to Ho Chi Minh City, Vietnam and return during August 1999; a copy of a passenger receipt for a round-trip airline ticket issued to the petitioner on August 11, 1999 and copies of two boarding passes listing Taipei and Los Angeles as destinations. The AAO notes that evidence of a meeting between the petitioner and the beneficiary during August 1999 does not satisfy the requirement under section 214(d) of the Act that the parties personally meet *within two years before* the date of filing the Form I-129F petition.

On appeal, the petitioner submits a letter, dated August 22, 2003; copies of email correspondence between the petitioner and the beneficiary and a letter mailed from the beneficiary to the petitioner. In his letter, the petitioner states that he was unable to leave his job in order to travel to Vietnam during the required two-year period. The petitioner's lack of time to travel to Vietnam does not constitute extreme hardship to the petitioner pursuant to 8 C.F.R. § 214.2(k)(2). The expense and time commitments required for travel to a foreign destination are common requirements to those filing a Form I-129F petition. Further, 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 the beneficiary to explore alternative meeting options.

The petitioner's letter also indicates that he is making plans to visit the beneficiary in Vietnam during December 2003 and will provide CIS with evidence of that meeting upon his return. The AAO notes that over five months have elapsed since the petitioner filed his appeal and no additional documentation has been received. In addition, evidence of a meeting between the petitioner and the beneficiary during December 2003 would not satisfy the requirement under section 214(d) of the Act that the parties personally meet *within two years before* the date of filing the Form I-129F petition.

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. Therefore, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.