

D6

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

FILE: [Redacted]
SRC 03 121 52657

Office: TEXAS SERVICE CENTER

Date: **MAR 05 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:

identif... to
prevent the ...
invasion of personal privacy

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, Texas Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Morocco, 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 established grounds to warrant a favorable exercise of the Director's discretion to exempt the personal meeting requirement under section 214(d) of the Act. *See* Decision of the Director, dated October 28, 2003. The record reflects that the director agreed to alter the date of decision in order to afford the petitioner additional time in compiling a response. The petitioner's appeal was timely filed on December 4, 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 March 26, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 26, 2001 and ended on March 26, 2003.

On appeal, the petitioner submits a letter of explanation, dated December 4, 2003; a letter addressed to Mr. [REDACTED] of the Texas Service Center, dated December 4, 2003; copies of letters from physicians, medical records and copies of prescriptions for both the petitioner's daughter and her mother; copies of letters from the school of the applicant's daughter; copies of records for the petitioner's business; receipts for phone cards purchased by the petitioner and several letters of support. The record also contains a letter from the petitioner, dated October 1, 2003; letters from the beneficiary; copies of email correspondence between the petitioner and the beneficiary; a copy of the petitioner's drivers license and Social Security card; a copy of a letter written to Senator [REDACTED] by the petitioner, dated September 19, 2003; a copy of the invoice from the petitioner's Certified Public Accountant, dated April 10, 2003; copies of dog food receipts; copies of paperwork relating to puppy sales; an explanation of extreme hardship from the petitioner, dated March 23, 2003; additional medical records for the petitioner's daughter; copies of paperwork relating to periods when the applicant's daughter was homebound; copies of notes and gifts sent by the beneficiary to the petitioner and additional statements written by the petitioner regarding the relationship between the petitioner and the beneficiary.

The record establishes that the petitioner's daughter suffers from asthma. However, the record is inconclusive regarding the severity of the condition of the petitioner's daughter. While the petitioner contends that her daughter's asthma is severe, she submits statements from medical professionals characterizing her condition as "mild to moderate" and "mild." See Letters from [REDACTED] MD, dated November 17, 2003 and [REDACTED] dated September 22, 2003. Her medical condition has required the petitioner's daughter to remain homebound for periods of time causing her to fall behind in school and consequently, fail to obtain a driver's license. See Letter from [REDACTED] dated December 4, 2003 and Copy of "The Types of Texas Driver's Licenses."

The petitioner contends that she cannot leave her daughter in order to travel to Morocco because the petitioner's mother and son are unable to care for the petitioner's daughter in her absence. The petitioner states, "My mom also lives in Snyder. She is nearing the age of 70. She suffers from a wide range of health problems including: angina (heart problems), high blood pressure, and arthritis which is so bad that at times she can barely walk. ... My son lives in Snyder, too, but he is not responsible. He is very caught up in his own life and his wants." See Item #19 Explanation, dated March 23, 2003. To support these assertions, the petitioner submits statements from two physicians who have treated the petitioner's mother in the past and who state that she should not be left alone with a minor child suffering with medical challenges. See Letters from [REDACTED] DC and [REDACTED] MD, dated November 19, 2003 and November 26, 2003, respectively. The AAO is not persuaded that the petitioner's assessment of her son's maturity renders him unable to care for his 17-year-old sister for a short period. However, when these assertions are considered alongside the petitioner's need to maintain her sole proprietorship puppy business, the AAO finds that the petitioner is not able to travel to Morocco to meet with the beneficiary.

Section 214(d) of the Act requires the petitioner and the beneficiary to meet. The statute does *not* require the petitioner to travel to the beneficiary's home country. The record does not demonstrate that the petitioner and the beneficiary have explored options for a meeting beyond the possibility of the petitioner traveling to Morocco, including, but not limited to the possibility of the beneficiary traveling to meet the petitioner in the United States or a bordering country.

The evidence of record does not establish that the petitioner and beneficiary met as required. Further, 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. 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.