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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

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NOV 10 2004

IN RE:

Petitioner:

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

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prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska 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 Nigeria, 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 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. *Decision of the Director*, dated March 3, 2004.

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 18, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 18, 2001 and ended on March 18, 2003.

In response to the director's request for evidence and additional information, the petitioner submitted a statement indicating that she and the beneficiary did not want to meet prior to marriage in order to avoid the temptation to engage in premarital sex. The petitioner further indicated that she was fearful of traveling to Nigeria because it is a dangerous location.

On appeal, the petitioner submits a letter stating that she suffers from several medical ailments including high blood pressure, edema, a severe case of dry eye, hypertension, foot problems, arthritis and recovery from a recent hernia surgery. The petitioner indicates that she is prescribed medication to combat these conditions and that she is disabled as a result of her medical problems. *Letter to Administrative Appeals Unit from Cassandra Solomon*, undated. In support of these assertions, the petitioner submits several letters from physicians who currently treat her or have treated her in the past; empty prescription bottles; copies of prescription and over the counter medication labels; a copy of a letter from the State Teachers Retirement System of Ohio attesting to the status of the petitioner as disabled; copies of medical insurance statements reflecting treatment undergone by the petitioner and descriptions of several medications that the petitioner is prescribed.

The petitioner further contends that she is unable to travel to or reside in Nigeria owing to her medical conditions and the widespread poverty and crime in her fiancé's native country. *Id.* at 2. In support of her contentions, the petitioner submits statistics and articles regarding country conditions in Nigeria.

The petitioner also provides copies of the birth certificate of the beneficiary; the Nigerian passport issued to the beneficiary and a document evidencing the endorsement of a marriage between the petitioner and the beneficiary by the parents of the beneficiary.

Although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The AAO acknowledges that travel to Nigeria would impose hardship on the petitioner in light of her medical condition. The record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Nigeria, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country. The petitioner states that she attempted to obtain a visitor visa for the beneficiary through the United States Embassy in Lagos, Nigeria. *Id.* at 4. The AAO notes, however, that the record fails to evidence an attempt to obtain a visa as asserted. The inability of the petitioner to travel to the home country of the beneficiary standing alone does not warrant a finding of extreme hardship to the petitioner.

The AAO acknowledges that the petitioner embraces arranged marriage and seeks to have a religious wedding and marriage. *Id.* at 5 (“I want to be blessed with a book of Corinthians marriage. I prayed for a good husband who had been baptized, born of the Spirit of God, has been circumcised, and believe and trusted in God...I have learned to embrace arranged marriages.”). The AAO upholds the finding of the director that the meeting requirement does not violate the religious beliefs of the petitioner and the beneficiary. “The petitioner’s assertion that she and the beneficiary must remain faithful to their religious beliefs and traditions of celibacy does not preclude them from meeting face-to-face as required by [CIS] regulation.” *Decision of the Director.*

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between March 18, 2001 and March 18, 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.