



U.S. Citizenship  
and Immigration  
Services

206

[REDACTED]

FILE: [REDACTED]  
EAC 03 054 52721

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:

[REDACTED]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Colombia, 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. *Decision of the Director*, dated May 1, 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 December 10, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 10, 2000 and ended on December 10, 2002.

In response to the director's request for evidence and additional information, the petitioner submitted a letter stating that he fears traveling to Colombia because the country is unsafe and he has a fear of flying. The director notes that the petitioner failed to provide documentation of his fear of flying and did not explore the option of meeting the beneficiary in a third country.

On appeal, counsel contends that the decision of the director incorrectly indicates that the petitioner has not met the burden of establishing a bona fide love relationship with the beneficiary. *Form I-290B*, dated June 3, 2003. Counsel states that the petitioner and the beneficiary maintain contact through telephone conversations and letters, which establishes their intent to get married, and therefore, they should be exempt from the meeting requirement. *Petitioner and Beneficiary Brief in Support of Appeal of the Decision of the Immigration and Naturalization Service*, dated July 2, 2003. Counsel submits a letter stating that the petitioner is treated for a mental disorder and experiences anxiety when flying in an airplane. *Letter from William M. Eckelman*, undated. Counsel further asserts that the petitioner and the beneficiary explored alternatives for meeting but that the Mexican embassy in Colombia "has been denying tourist visas to Colombian Citizens [sic]". *Petitioner and Beneficiary Brief in Support of Appeal of the Decision of the Immigration and Naturalization Service* at 3.

The AAO notes that counsel's assertion that the petitioner and the beneficiary should be exempt from the meeting requirement is unpersuasive. Although counsel contends that the decision of the director is premised on the petitioner's failure to prove a "bona fide love relationship," the decision of the director clearly states that the director denied the petition because the petitioner failed to demonstrate that he and the beneficiary met as required under section 214(d) of the Act. While the relationship between the petitioner and the beneficiary may evidence their intent to get married, the regulations at 8 C.F.R. § 214.2(k)(2) state that the petitioner may be exempted from the requirement for a meeting only if it is established that compliance 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.

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 record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Colombia, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country. Although counsel asserts that it would be difficult for the beneficiary to obtain a visa to travel to Mexico, the record does not

demonstrate that the beneficiary has attempted to obtain a visa for travel to Mexico. The inability of the petitioner to travel to the home country of the beneficiary standing alone does not warrant a finding of extreme hardship. The AAO notes that the proffered letter establishing the petitioner's fear of flying is signed by an individual who fails to identify himself as a physician and fails to state the capacity in which he treats the petitioner. *Letter from William M. Eckelman.*

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.