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**U.S. Citizenship
and Immigration
Services**

DL

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 31 2005**

WAC 04 239 50909

IN RE:

Petitioner:

[REDACTED]

Beneficiary:

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 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

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 Cambodia, 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated December 27, 2004.

Section 101(a)(15)(K) of the Immigration and Nationality Act (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 Citizenship and Immigration Services on August 25, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 25, 2002 and ended on August 25, 2004.

At the time of filing, the petitioner stated he and the beneficiary had not previously met. Therefore, the evidence of record does not establish that the petitioner has complied with the two-year meeting requirement of section 214(d) of the Act.

In response to the director's request for evidence, the petitioner submitted evidence of his engagement to the beneficiary and a November 2004 trip to Cambodia to meet her for the first time. On appeal, the petitioner asks that the denial of the petition be overturned as he was unaware of the meeting requirement of 214 (d) of the Act and has provided adequate documentation to establish his relationship to the beneficiary. He further contends that he was prevented from meeting the beneficiary prior to filing the petition because of the distance between the United States and Cambodia, as well as financial constraints. The petitioner also asserts that it is often customary in arranged marriages for the engaged couple not to have met previously. However, the reasons put forward by the petitioner do not exempt him from the meeting requirement of section 214(d) of the Act.

To be exempted from that requirement, a petitioner must establish either that compliance would have posed an extreme hardship for him or her, or that a meeting would have violated the customs of the beneficiary's culture or social practice. 8 C.F.R. § 214.2(k)(2). Neither the petitioner's ignorance of the meeting requirement, nor the genuineness of his relationship to the petitioner provides a basis for exemption. Further, the petitioner's references to the difficulty of traveling to Cambodia, and his need to save money for the trip and request leave from his employment are common concerns among individuals who wish to file Form I-129Fs. As a result, they do not constitute extreme hardship.

The petitioner also contends that, in Cambodia, a man and wife need not have met prior to marriage. However, to establish an exemption from the meeting requirement for the purposes of filing a Form I-129F, the petitioner must establish not just that marriage in Cambodia may occur without prior contact between the bride and groom, but that a meeting with his fiancée would have violated long-held customs of her culture or social practice. As the petitioner has stated he met the beneficiary in November 2004, the evidence of record indicates there were no cultural or religious prohibitions to a meeting between the petitioner and beneficiary during the two-year period that preceded the filing of the Form I-129F. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period will apply.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.