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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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DG

FILE:

[REDACTED]  
EAC 04 166 52233

Office: VERMONT SERVICE CENTER

Date: **MAY 16 2005**

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:

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, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Acting 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 Japan, 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 acting director denied the petition after determining that (1) the petitioner and the beneficiary had not personally met within the two years immediately preceding the date of filing of the petition and (2) the petitioner had not indicated that he intended to marry the beneficiary within 90 days of her arrival in the United States. *Decision of the Director*, dated June 23, 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 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 May 20, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 20, 2002 and ended on May 20, 2004.

At the time of filing, the petitioner indicated that the beneficiary was visiting him in the United States, but did not provide documentation of her arrival. Further, in an April 3, 2004 letter, which appears to have been provided at the time of filing, the petitioner stated that the beneficiary would be coming to the United States to provide healthcare services for him. He did not indicate that he intended to marry her within 90 days of her arrival. Therefore, the evidence of record does not establish that the beneficiary of the instant petition is a fiancée, as defined at section 101(a)(15)(K)(i) of the Act, 8 U.S.C. § 1101(a)(15)(K), or that the petitioner has complied with the meeting requirement found at section 214(d) of the Act, 8 U.S.C. § 1184(d).

On appeal, the petitioner asserts that he has complied with the meeting requirement, that the beneficiary lived with him in the United States between April 28, 2004 and June 16, 2004. However, the petitioner again submits no evidence to document the beneficiary's presence in the United States during this time period, e.g., a copy of the beneficiary's airline ticket stub or a copy of the page from her passport bearing a U.S. admission stamp. Therefore, he has not established that he has satisfied the meeting requirement found in section 214(d) of the Act.

The petitioner's appeal also states his understanding that a range of immigration channels are open to him to bring the beneficiary to the United States to serve as his live-in attendant, including what he describes as a "marriage visa." Again, he does not indicate that he intends to marry the beneficiary within 90 days of her arrival in the United States. Accordingly, the AAO finds that the petitioner has also failed to establish that the beneficiary meets the definition of fiancée set forth at section 101(a)(15)(K) of the Act, i.e., someone coming to the United States solely to conclude a valid marriage within 90 days of her admission.

Therefore, for the reasons just discussed, the appeal will be dismissed.

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.