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U.S. Citizenship
and Immigration
Services

D6



FILE: [REDACTED]
WAC 05 068 53769

Office: CALIFORNIA SERVICE CENTER

Date: NOV 21 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 Director, California 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 failed to establish that she and the beneficiary had personally met within the two-year period preceding the date of filing the petition, as required by section 214(d) of the Act. The director also found the petitioner to be ineligible for an exemption of the meeting requirement under 8 C.F.R. § 214.2(k)(2). *Decision of the Director*, dated March 2, 2005.

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 January 3, 2005. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on January 3, 2003 and ended on January 3, 2005.

At the time of filing, the petitioner indicated that she had not previously met the beneficiary, as neither she nor the beneficiary could afford to travel. She also stated that a meeting with the beneficiary, without a chaperone from his tribe, would violate the beneficiary's traditions and customs. Therefore, the record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner states that she is confused by the requirements of the Form I-129F because of a medical condition but has tried to the best of her ability to comply with them. She submits evidence of a determination by the Social Security Administration that she is disabled because of depression and a cognitive disorder.

Although the petitioner has indicated that meeting during the specified period would have imposed a financial hardship on her and the beneficiary, financial concerns are common to many individuals who seek to file Form I-129Fs and, therefore, do not constitute extreme hardship. Further, although she has stated that an unchaperoned meeting with the beneficiary would violate his customs, she has not identified these customs and has provided no independent evidence to support her assertions in this regard. Going on record without supporting documentation is insufficient to meet the petitioner's burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Accordingly, the record does not establish that the beneficiary's traditions and customs prevented him from meeting with the petitioner.

While the AAO also notes that the record establishes that the petitioner is in some way disabled, it offers no evidence to indicate whether such a disability would have prevented her from traveling to meet the beneficiary during the specified period. Further, even if the petitioner's medical condition prevented her from traveling, it would not establish an exemption under the extreme hardship language at 8 C.F.R. § 214.2(k)(2), absent evidence that the beneficiary was unable to travel to meet the petitioner in the United States. However, the record, despite the petitioner's assertions to the contrary, does not establish that the beneficiary was unable to travel to the United States to meet the petitioner. Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find the record before it to establish that compliance with the meeting requirement would have resulted in extreme hardship to him or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year period in which the parties are required to have met 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.



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ORDER: The appeal is dismissed.