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U.S. Citizenship  
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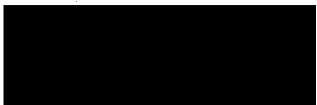
Office: VERMONT SERVICE CENTER

Date: NOV 18 2005

EAC 04 258 53194

IN RE:

Petitioner:



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, 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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Dominican Republic, 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 record failed to establish that the petitioner and the beneficiary had personally met during the two-year period that preceded the date of filing, as required by section 214(d) of the Act. *Decision of the Director*, dated January 26, 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 September 16, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 16, 2002 and September 16, 2004.

At the time of filing, the petitioner indicated that she first met the beneficiary in August 1999 but did not state whether a meeting had also occurred during the two years immediately preceding her filing of the Form I-129F. In response to the director's request for evidence, the petitioner stated that her relationship with the beneficiary began in August 2000 and that she was involved with him until June 2002, not resuming their relationship until 2003. She submitted written statements from friends and family members attesting to her relationship with the beneficiary, money transfers to the beneficiary's family, and records of telephone contact between herself and the beneficiary.

On appeal, the petitioner states that she saw the beneficiary in 2002 when she traveled to the Dominican Republic on vacation, but does not provide the dates for this travel. She also submits proof of a February 2005 trip to the Dominican Republic, including pages from her U.S. passport, and airline and hotel receipts.

Based on the evidence noted above, the AAO does not find the record to establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act. The petitioner has not provided evidence to prove that she and the beneficiary met in person during the period September 16, 2002 to September 16, 2004. The petitioner indicated that she visited the beneficiary in 2002, but there is nothing in the record to indicate that this meeting occurred within the specified time period. While the petitioner did document her February 2005 trip to the Dominican Republic, this travel does not satisfy the meeting requirement as it falls outside the timeframe established by statute. The petitioner's submission of money transfers and telephone calls to the beneficiary do not respond to the statutory requirement that the petitioner and beneficiary have met in person. Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the appeal is dismissed without prejudice. As the petitioner and beneficiary have now met again, she may submit a new Form I-129F on his 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.