



U.S. Citizenship  
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Services

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DG



FILE: [REDACTED]  
LIN 04 198 51832

Office: NEBRASKA 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 Acting Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, 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 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. He further determined that the petitioner had failed to prove that his compliance with that requirement would have constituted an extreme hardship for him. *Decision of the Acting Director*, dated March 8, 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 July 1, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 1, 2002 and ended on July 1, 2004.

At the time of filing, the petitioner indicated that she and the beneficiary had previously lived in the same town, but did not state whether they had met within the specified time period just noted.

On appeal, the petitioner responds to the director's request for evidence, indicating that he was in Vietnam from September 28, 2004 until March 23, 2005 and, therefore, never received it. The record contains documentation sufficient to establish that the petitioner began his travel on September 28, 2004 and arrived in Vietnam on September 30, 2004. He returned to the United States on February 25, 2005, traveling to his home on March 23, 2005.

In response to the director's request for evidence of a meeting during the specified period, the petitioner provides the following documentation of an August 22, 2003 trip to Vietnam: American Airlines/Cathay Pacific Airways boarding passes in the petitioner's name that do not indicate a year, but show dates of August 21 and August 22 for flights between Los Angeles and Hong Kong, and Hong Kong and Ho Chi Minh City; a Vietnam Airlines boarding pass issued in the petitioner's name, with no year designated, for a December 25 flight from Ho Chi Minh City to Hong Kong; and a Cathay Pacific Airways passenger receipt in the petitioner's name issued on July 29, 2003 for travel beginning on August 20 in Los Angeles and ending in Ho Chi Minh City on August 22; and a number of photographs, dated by the petitioner. The AAO finds that, when viewed together, the petitioner's boarding passes and passenger receipt do establish that he traveled to Vietnam in August 2003. Accordingly, he is found to have complied with the meeting requirement of section 214(d) of the Act. The appeal will be sustained.

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 met that burden.

**ORDER:** The appeal is sustained.