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U.S. Citizenship  
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DG

FILE: [REDACTED]  
LIN 04 234 51767

Office: NEBRASKA SERVICE CENTER

Date: NOV 22 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 dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Mexico, 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 acting director denied the petition after determining that the petitioner and the beneficiary had not personally met within the two-year period immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. He also found that the record did not establish that the petitioner was a U.S. citizen and eligible to submit a petition on behalf of the beneficiary or that the petitioner's prior marriage had been legally terminated leaving her free to marry the beneficiary. *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 August 17, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 17, 2002 and ended on August 17, 2004.

At the time of filing, the petitioner indicated that she and the beneficiary had previously met, but did not state whether that meeting had occurred within the specified period just noted. In response, the director issued a request for evidence asking the petitioner to submit proof of her U.S. citizenship, the termination of her prior marriage, a meeting between herself and the beneficiary, and a signed Form I-129F. The petitioner submitted only the signed Form I-129F.

On appeal, the petitioner now provides a copy of her Michigan birth certificate and her divorce degree issued by a Macomb County, Michigan circuit court judge on October 14, 2004, a date subsequent to her August 17, 2004 filing of the petition. She submits no evidence to prove that she and the beneficiary met between August 17, 2002 and August 17, 2004.

Therefore, the record does not establish that the petitioner has satisfied all the requirements of section 214(d) of the Act, 8 U.S.C. 1184(d). It contains no evidence that the petitioner and beneficiary met during the specified period, nor proof that, at the time of filing, she was legally free to marry the beneficiary. Further, the record does not establish that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner 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. For these reasons, the appeal will be dismissed.

The AAO also notes that the record before it contains no passport-style photographs of the petitioner and beneficiary as required to file a Form I-129F. Failure to comply with the filing instructions accompanying a CIS form will result in denial. *See* 8 C.F.R. § 103.2(a)(1). For this reason as well, 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.