

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D6



FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 07 2005

EAC 04 131 51763

IN RE:

Petitioner:



Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 of the Administrative Appeals Office 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 sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of China, as the fiancée of a United States citizen pursuant to § 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 had not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by § 214(d) of the Act.

Section 101(a)(15)(K) of 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. . . .

The record establishes that the petitioner and beneficiary became acquainted in July 2003 through an Internet friendship website. The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services (CIS) on March 29, 2004; therefore, he and the beneficiary were required to have met during the period that began on March 29, 2002 and ended on March 29, 2004. The record reflects that they did not comply with this requirement.

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 § 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 not within the power of the petitioner to control or change and are likely to endure for a lengthy period or are of undetermined duration.

The petitioner maintains that he is the primary caregiver for his elderly mother, who suffers from Alzheimer's disease, and that he cannot travel due to his mother's condition. The acting director determined that the applicant himself would not suffer extreme hardship in view of his mother's illness were he required to comply with the above-noted personal meeting requirement.

On appeal, the petitioner submits a letter dated July 1, 2004 written by his mother's physician, Dr. Michelle A. Scannapieco. Dr. Scannapieco reports that the petitioner's mother suffers from dementia, incontinence, gait dysfunction, diabetes, and hypertension, and she cannot take care of herself in very basic ways. Dr. Scannapieco expresses the opinion that the applicant's mother cannot travel, as a change in environment will cause her additional agitation and anxiety. The petitioner also submits a letter dated June 24, 2004 written by Joyce Zuzack, RN, a Nurse Consultant to the Bucks County Area Agency on Aging who is the petitioner's co-worker and is familiar with his mother. Ms. Zuzack describes the potential for Alzheimer's patients to become agitated and combative when faced with changes in familiar routines. Ms. Zuzack states that even a temporary stay at a nursing home could cause the petitioner's mother's condition to degenerate, causing not only his mother hardship, but also extreme hardship to the petitioner, who must care for her. The petitioner also submitted literature regarding the symptoms of dementia.

In addition, the petitioner wrote two explanatory letters of his own on appeal. He states that it would be impossible to take his mother with him on a trip of any duration, and placing her in an eldercare facility would very likely cause a sharp downturn in her condition. The medical documentation included supports this claim. The petitioner writes that a worsening of his mother's health would cause him extreme hardship, since he will be responsible for continuing to care for her under such circumstances.

The AAO finds that the evidence on the record establishes that requiring the petitioner and beneficiary to meet in person would cause the petitioner extreme hardship; therefore, the petitioner is exempted from this requirement, pursuant to 8 C.F.R. § 214.2(k)(2)

ORDER: The appeal is sustained and the application is approved.