



U.S. Citizenship  
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Services

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[REDACTED]

FILE: [REDACTED]  
SRC 04 147 52720

Office: TEXAS SERVICE CENTER

Date: OCT 28 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 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 Director, Texas 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 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 director denied the petition after determining that the petitioner had not offered documentation evidencing that she and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated October 28, 2004.

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. . . .

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 April 29, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 29, 2002 and ended on April 29, 2004.

In response to the director's request for evidence and additional information, the petitioner failed to submit evidence establishing that she and the beneficiary met during the required two-year period.

On appeal, the petitioner submits copies of apartment leases reflecting joint occupancy by the petitioner and the beneficiary between April 2003 and May 2004; a copy of a United States birth certificate for a baby born to the petitioner and the beneficiary on May 23, 2003; a letter from the petitioner's mother attesting to the petitioner's relationship with the beneficiary; a letter from a pastor of a church attended by the petitioner and the beneficiary; a letter from the manager of the Rivercrest Apartments where the petitioner and the beneficiary lived during 2003; a copy of a hospital certificate of birth for a baby born to the petitioner and the beneficiary on June 24, 2004; and copies of two Social Security cards.

The record on appeal establishes that the petitioner and the beneficiary met between April 29, 2002 and April 29, 2004. The AAO finds, therefore, that the evidence on appeal establishes compliance with the meeting requirement under section 214(d) of the Act. The appeal will be sustained.

The AAO notes that although the petitioner has met all of the requirements to qualify the beneficiary for a nonimmigrant fiancé visa, the beneficiary's previous immigration history has direct bearing on the beneficiary's admissibility to the United States and will be reviewed by a consular officer before a nonimmigrant visa is issued to the beneficiary pursuant to the approval of the Form I-129F petition.

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