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FILE: 
WAC 04 062 52425

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 06 2005**

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, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The AAO notes that the petitioner's appeal is presented by an individual who claims to represent an organization, Cali Law and Services, that is recognized by the Board of Immigration Appeals (BIA). Pursuant to 8 C.F.R. § 292.1(a)(4), a petitioner may be represented in proceedings before CIS by representatives of organizations that have been accredited by the BIA. However, Cali Law and Services is not included in the listing of accredited organizations published by the BIA on its website. Accordingly, the AAO will not recognize Cali Law and Services as representing the petitioner in this proceeding.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Laos, 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 director denied the petition after determining that the petitioner had failed to establish that he and the beneficiary had personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated July 20, 2004.

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 December 31, 2003. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on December 31, 2001 and ended December 31, 2003.

At the time of filing, the petitioner indicated that he had previously met the beneficiary and submitted credit card statements showing him to have been in Laos in April and December of 2000, and January, February, October and November of 2001, as well as numerous telephone calling cards as proof of his continuing contact with the beneficiary. In response to the director's request for evidence that a meeting with beneficiary had occurred during the specified two-year period, the petitioner stated that he had most recently visited the beneficiary in November 2001. He indicated that he had been unable to travel to meet the beneficiary since that time because his Application for Travel Document, Form I-131, filed on January 17, 2003, was not yet approved. Upon becoming a U.S. citizen on December 17, 2003, the petitioner stated that he applied for a passport and traveled to meet the beneficiary on January 24, 2004. As proof of his travel, he submitted copies of the pages of his U.S. passport bearing Lao admission and departure stamps, as well as boarding passes for his flight to Vientiane. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act, i.e., met the beneficiary during the period December 31, 2001 and December 31, 2003.

On appeal, the petitioner again references the credit card statements initially submitted at the time of filing as proof that he met the beneficiary in Laos in 2000 and 2001. The AAO agrees that these statements prove the petitioner was in Laos in 2000 and 2001. However, as just noted, they do not establish that he was in Laos between December 31, 2001 and December 31, 2003, as required for compliance with the meeting requirement of section 214(d) of the Act.

The petitioner has stated that, until he became a U.S. citizen, he was prevented from traveling to Laos because his Form I-131 application for a new re-entry permit was pending with CIS. However, while the petitioner may not have been able to travel while this application was pending, his inability to travel outside the United States during that period does not establish that a meeting with the beneficiary during the specified time period would have constituted an extreme hardship for him. The AAO notes that the petitioner filed the Form I-131 on January 17, 2003. Therefore, for half of the two-year period preceding the filing of the instant petition, the petitioner appears to have had the documentation necessary to travel outside the United States. Further, while section 214(d) of the Act requires a meeting between the petitioner and the beneficiary during the two-year period immediately preceding the filing of the Form I-129F, it does not require that the petitioner travel to the beneficiary's home country. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary explored

options for a meeting in the United States. Therefore, taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to him 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. 8 C.F.R. § 214.2(k)(2). Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The AAO notes the petitioner's travel to Laos and Thailand in January-February 2004. While this trip does not satisfy the meeting requirement for the instant Form I-129F, the petitioner may file a new Form I-129F on the beneficiary's behalf so that a new two-year period in which the parties are required to have met 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.