

identifying data deleted to  
prevent identity or warranted  
invasion of personal privacy

PUBLIC COPY

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



U.S. Citizenship  
and Immigration  
Services

D6

FILE: [REDACTED]  
LIN 04 195 53631

Office: NEBRASKA SERVICE CENTER

Date SEP 20 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 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 Cambodia, 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 petitioner and the beneficiary had not personally met within two years before the date of filing the petition, as required by section 214(d) of the Act, and that the petitioner had not established that compliance with the meeting requirement would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. The acting director further determined that the petitioner had not submitted credible documentary evidence to establish the fiancée relationship within the meaning of section 101(a)(15)(K) of the Act. *Decision of the Acting Director*, dated December 2, 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 June 29, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 29, 2002 and ended on June 29, 2004.

In conjunction with the filing of the Form I-129F petition, the petitioner submitted a letter stating that the petitioner and the beneficiary last met during June 2000 when the petitioner visited Cambodia. The petitioner indicated that his physician advised him against making the trip again. The petitioner failed to submit a completed, signed Form G-325A for the beneficiary as required to process the Form I-129F petition.

On appeal, the petitioner asserts that he is a diabetic and suffers from neuropathy including sores and ulcers on his feet. *Letter from Rob Morey*, undated. The petitioner explains that the trip to Cambodia in 2000 took a toll on his physical status and that his condition has deteriorated since that point in time. *Id.* The petitioner submits a completed, signed Form G-325A for the petitioner; a medical treatment and hospitalization history, dated December 20, 2004; a letter from his physician; a listing of the medications used by the petitioner; five photographs of ulcers of the foot for which the petitioner has received treatment and an email message from the beneficiary.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between June 29, 2002 and June 29, 2004. Although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The AAO acknowledges that the petitioner's physician feels it would not be prudent for the petitioner to travel to Cambodia, but the record on appeal does not establish that the petitioner and the beneficiary are unable to meet in a bordering third country or in the United States in order to secure compliance with the meeting requirement. *See Letter from Samuel Cataland, MD*, dated May 27, 2004. The petitioner submits an email message from the beneficiary stating "Regular Cambodian people can not [sic] obtain a VISA [sic] to visit any country, especially US, Canada or Europe [sic] countries." The record fails to evidence that the beneficiary has attempted and failed to receive a visa for travel. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate

strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

In addition, the record on appeal fails to contain a completed, signed Form G-325A for the beneficiary.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.