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U.S. Citizenship
and Immigration
Services

D6

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **APR 11 2006**

EAC 05 057 52872

IN RE:

Petitioner:

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

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DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Colombia, 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 submit evidence of a meeting with the beneficiary during the two-year period preceding the filing of the petition, as required to establish compliance with section 214(d) of the Act, or to document the lawful termination of the beneficiary's previous marriage. *Decision of the Director*, dated February 28, 2005.

On appeal, the petitioner submits a translated copy of the beneficiary's divorce decree and a completed Form G-325A biographical sheet signed by the beneficiary, documentation previously missing from the evidence of record. Accordingly, the only issue before the AAO is whether the petitioner has complied with section 214(d) of the Act.

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.

As the regulation does not define what may constitute extreme hardship to the petitioner, 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 22, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on December 22, 2002 and ended on December 22, 2004.

At the time of filing, the petitioner indicated that he had previously met the beneficiary, stating that he had known her for a period of 15 years and that they had recently reunited at his niece's wedding. He did not, however, address whether his meeting with the beneficiary had occurred during the specified time period, nor did he provide any documentation related to this meeting. The petitioner also failed to submit evidence of a meeting in his response to the director's request for evidence. On appeal, the petitioner provides documentation unrelated to the meeting requirement. Accordingly, the record does not establish that the petitioner and beneficiary met between December 22, 2002 and December 22, 2004.

The record also fails to provide a basis on which the petitioner could be exempted from compliance with the meeting requirement. The petitioner has not contended that compliance with the meeting requirement would have resulted in extreme hardship to him. Neither has he attempted to establish that a meeting with the beneficiary 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). Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. Should the petitioner have evidence that establishes a meeting with the beneficiary, he may file a new Form I-129F petition on her behalf so that a new two-year period in which the parties are required to have met will apply. The evidence provided by the petitioner must, however, prove that his meeting with the beneficiary occurred during the two-year period immediately preceding his filing of the new Form I-129F. Meetings with a beneficiary that take place outside this two-year period will not satisfy the requirements of section 214(d) of the Act.

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.