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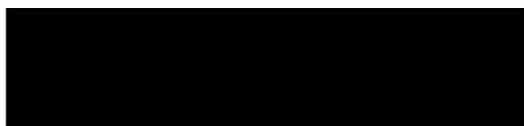
U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: AUG 22 2006

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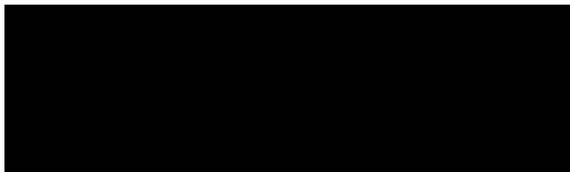
Petitioner:

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is before the Administrative Appeals Office on appeal. 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 Armenia, 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 and the beneficiary had not met each other personally, as required under § 214(d) of the Immigration and Nationality Act (Act). The director noted that although the evidence established that the petitioner was unable to sit for long periods, because he suffers from tetraplegia, the petitioner's physician did not state that the petitioner was unable to travel. Additionally, the director found no evidence that the beneficiary could not travel to the United States in order to comply with the meeting requirement.

On appeal, counsel states that the petitioner's fiancée is not able to enter the United States, because the U.S. consulate in Yerevan denied her a visitor's visa. On appeal, counsel submits a copy of the beneficiary's passport page showing that her visa application was received. The AAO notes that a visa application receipt stamp alone, that is, with no U.S. visa in the passport, generally indicates that the visa application was denied. Counsel also asserts that the petitioner is unable to travel to any country outside the United States due to his medical condition. Counsel submits additional medical documentation in support of this contention. The AAO finds the evidence persuasive.

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), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed. 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 (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.

In the instant case, the reasons given by the petitioner for not having met the beneficiary in person support a finding that compliance with the requirement would cause extreme hardship to the petitioner. The record on appeal contains a letter dated December 14, 2005 by [REDACTED] the petitioner's physician, and [REDACTED], the petitioner's case coordinator. [REDACTED] and [REDACTED] wrote that the petitioner suffers from tetraplegia and has a history of skin breakdown. The letter indicates that the petitioner must not risk bruising or scraping his skin or remaining in the same position for over 20 or 30 minutes, lest he incur another skin injury, since he no longer has sufficient skin to harvest for a skin graft. [REDACTED] and [REDACTED] state that the petitioner's motorized wheelchair could easily be damaged during the trip, and the petitioner would most likely not find accessible facilities in hotels.

In addition to the physical danger and logistical difficulties involved in travelling, according to the doctor and the caseworker, the petitioner could not even contemplate a journey out of the United States without a personal attendant or nurse, which would be extremely costly. The AAO notes that normal expenses involved in international travel are a challenge frequently encountered in complying with the personal meeting requirement; however, the expenses involved in the petitioner's taking a nurse or assistant along on international travel can be considered extraordinary. In sum, the totality of the circumstances indicates that compliance with the meeting requirement would cause the petitioner to suffer extreme hardship.

The burden is on the petitioner to establish by a preponderance of the evidence that compliance with the meeting requirement would impose extreme hardship on him. In this case, the petitioner has met this burden. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained.