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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
EAC 05 060 53278

Office: VERMONT SERVICE CENTER

Date: JUN 28 2006

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, Chief  
Administrative Appeals Office

**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 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 failed to establish that she 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. The director also found the record failed to establish a basis on which the petitioner could be exempted from the meeting requirement. *Decision of the Director*, dated June 28, 2005.

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 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 (CIS) on December 27, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on December 27, 2002 and ended on December 27, 2004.

At the time of filing, the petitioner indicated that she had not previously met the beneficiary. In response to the director's request for evidence, the petitioner confirmed that she had not been able to travel to Colombia to meet the beneficiary. Instead, she indicated that their relationship had been established through telephone conversations. Accordingly, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d).

On appeal, the petitioner states that in submitting the Form I-129F she followed the instructions of the CIS office in New York. She also contends that she has proof of her extensive communication with the beneficiary and indicates that additional evidence will be submitted within 30 days. The record, however, does not include any evidence submitted by the petitioner following her filing of the Form I-290B.

The statements made by the petitioner on appeal do not establish a basis for exempting her from the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d). As previously noted, a petitioner may be exempted from complying with the meeting requirement only if compliance would result in extreme hardship for the petitioner or violate the customs of the beneficiary's culture or social practice. Nothing in the petitioner's explanation as to why the petition should be approved responds to either ground for exemption.

The petitioner in the instant case has not asserted that a meeting with the beneficiary would have constituted an extreme hardship, nor that it was precluded by any customs of the beneficiary's culture or society. While the beneficiary indicated in her response to the director's request for evidence that she had not been able to travel to Colombia to meet the beneficiary, she offered no explanation of the circumstances that prevented her travel. Therefore, the record offers no basis on which the petitioner may be exempted from the meeting requirement of section 214(d) of Act.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, she may file a new Form I-129F petition on his 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.