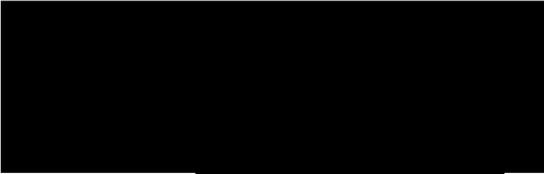




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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APR 11 2007

FILE: [REDACTED]
WAC 05 126 50626

Office: CALIFORNIA SERVICE CENTER Date:

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 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, California 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 Egypt, 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. He further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated February 21, 2006.

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 on March 29, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 29, 2003 and ended on March 29, 2005.

At the time of filing, the petitioner indicated that she met the beneficiary in late 1996 in Sacramento, California and lived with him for two years. In response to requests for evidence, the petitioner submitted a photocopy of an airline ticket and a boarding pass for the beneficiary showing travel from New York to San Francisco on September 16, 2003; car receipts dated March 2000; money transfer receipts dated March 2000; a utility bill assigned to the beneficiary dated July 2003; a seller's permit assigned to the beneficiary dated July 2002; a 1998 Report of Taxable Unemployment Compensation Payments assigned to [REDACTED] the alias used by the beneficiary; a Department of Motor Vehicles Registration card dated December 2000 assigned to the petitioner or the alias of the beneficiary; a Federal Student Aid Renewal Form for 2000 – 2001 assigned to the alias of the beneficiary; a medical statement of charges and payments dated April 2000, assigned to the alias of the beneficiary; an earnings statement dated September 2001 for the beneficiary; a handwritten receipt for a cash payment made by the beneficiary under his alias dated May 1999; and a vehicle sales agreement identifying the petitioner and beneficiary as co-buyers dated March 2000. The Director found that the evidence of record did not establish that the petitioner had complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner states that she and the beneficiary had an in-person relationship in Sacramento, California from 1998 through late 2003. *Statement from the petitioner*, dated March 20, 2006. She submits a vehicle registration card valid from December 20, 2002 to December 20, 2003 issued in the name of the petitioner or the alias of the beneficiary; a letter written from [REDACTED] in California stating that the beneficiary purchased items in the store in 2003; an unsigned statement from [REDACTED] restaurant in California that states evidence of dining in 2003; a Western Union receipt showing money transferred to the beneficiary in Egypt on October 28, 2003; and a California utility bill dated July 29, 2003 issued in the name of the beneficiary. The record also includes a letter from [REDACTED] dated September 17, 2003 noting that she is the beneficiary's fiancée and the mother of his daughter, and that the beneficiary had left the United States because of his father's health problems; a photocopy of the identification page of the passport of the beneficiary; and a hotel receipt dated September 16, 2003 from the [REDACTED] in Cairo, Egypt showing the beneficiary as a guest from September 3, 2003 to September 18, 2003.

The AAO observes that although the record includes a photocopy of an airline ticket and boarding pass for the beneficiary showing travel to San Francisco on September 16, 2003, the record also includes a hotel receipt showing the beneficiary was in Egypt on September 16, 2003. The AAO notes this inconsistency, finding that the photocopy of the airline ticket and boarding pass to San Francisco does not establish that the petitioner met with the beneficiary at that time. The AAO finds that although the petitioner has submitted numerous documents on behalf of herself and the beneficiary, the record does not demonstrate that she and the beneficiary met during the

two-year time period specified above – March 29, 2003 to March 29, 2005 – and does not satisfy section 214(d) of the Act. The AAO does not find the petitioner to have offered evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her or that such a meeting would have violated the customs of the beneficiary's culture or social practice. Therefore, the appeal will be dismissed.¹

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, she may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year meeting period 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.

¹ The record also reflects that on September 19, 2003 an immigration judge ordered the beneficiary removed from the United States in a hearing held in absentia. *See Order of the Immigration Judge*, dated September 19, 2003. As the beneficiary has been previously ordered removed from the United States and is seeking admission into the United States within 10 years of his order of removal, he is inadmissible. *See Section 212(a)(9)(A) of the Act*. There is nothing in the record to demonstrate that the Attorney General has consented to the alien's reapplying for admission, therefore he is not excepted from being inadmissible.