

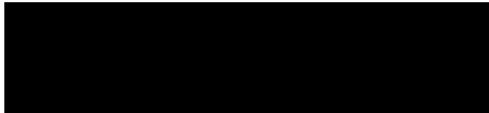
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U.S. Department of Homeland Security  
20 Massachusetts Avenue NW, Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

D6



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 19 2007

WAC 07 010 50744

IN RE:

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:

SELF-REPRESENTED

**PUBLIC COPY**

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, 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 the Cuba, as the fiancée of a United States citizen pursuant to § 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 not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by § 214(d) of the Act, or that compliance with the meeting requirement would result in extreme hardship to the petitioner.

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 result in extreme hardship to the petitioner. The regulations do 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 October 13, 2006; hence, he and the beneficiary were required to have met during the two-year period beginning on October 13, 2004. On appeal, the petitioner states that he and the beneficiary keep in constant contact with each other via the Internet, but that they have never met in person because as a U.S. citizen, the petitioner is not allowed to travel to Cuba. The record contains statements written by the petitioner, many

pages of Internet chat transcripts between the petitioner and beneficiary, complete with webcam snapshots, and information from the U.S. Department of State on the regulation of travel to Cuba. The petitioner has also submitted letters written by his and the beneficiary's family members. The AAO has reviewed the entire record and concurs with the director's finding that the meeting requirement would not cause the petitioner to suffer extreme hardship.

The law imposes a requirement that the petitioner and beneficiary meet within two years before the filing of the petition, but it does not specify where the meeting must take place. In the case at hand, there is no evidence that the petitioner and beneficiary explored options other than the petitioner's traveling to Cuba, such as meeting each other in a third country. Moreover, there is no evidence that the beneficiary has applied for and been denied an exit permit from the Cuban government or a visa for another foreign country. In sum, the evidence does not show that the petitioner and beneficiary are prevented from meeting in a location outside Cuba.

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. Therefore, the appeal will be dismissed.

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* § 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.