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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 09 2007
WAC 06 260 53056

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cuba, 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 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. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated November 30, 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 August 22, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 22, 2004 and ended on August 22, 2006.

At the time of filing, the petitioner indicated that he had met with the beneficiary within the two-year period immediately preceding the filing of the Form I-129F application, but he did not specify the dates of that meeting. In response to the director's request for evidence, the petitioner submitted airline ticket receipts showing his travel to Havana, Cuba from November 6, 2006 to November 17, 2006; a copy of his license issued by the U.S. Department of the Treasury dated October 25, 2006 authorizing the petitioner to enter Cuba; and photographs of the petitioner and beneficiary together dated November 2006. The petitioner also submitted additional undated photographs of himself with the beneficiary; and a copy of his U.S. passport which does not indicate any admissions to Cuba. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner states that he formalized his relationship with the beneficiary at the end of 2003, and that he traveled to Cuba and met with the beneficiary in the summer of 2004, within the two-year period immediately preceding the filing of the petition. *Petitioner's brief.* To support this statement, the petitioner submitted photographs of himself with the beneficiary that he stated were taken during this meeting. *Id.; See photographs.* While the AAO finds the petitioner to have established that he traveled to Cuba in November 2006 based on the airline ticket receipts, the Department of Treasury license dated October 25, 2006, and time-dated photographs of the petitioner with the beneficiary taken in November 2006, he has not established compliance with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition. The AAO acknowledges the petitioner's statement that he traveled to Cuba and met with the beneficiary in the summer of 2004, but finds that the only evidence submitted to support this statement are undated photographs. Furthermore, the AAO notes that these photographs were developed in December 2006, as evidenced by the dates printed on the backs of the photographs. The petitioner has submitted no other evidence, such as copies of airline tickets and/or boarding passes of a visit to Cuba in the summer of 2004.

The only documented meeting between the petitioner and the beneficiary occurred approximately two months after the petitioner filed the Form I-129F. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above – August 22, 2004 to August 22, 2006 – and does not satisfy section 214(d) of the Act. Further, the petitioner has offered no evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him or that such a meeting would have violated the customs of the beneficiary's culture or social practice. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new 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.