



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy*

[REDACTED]

FILE:

LARC 03 234 30541

Office: VERMONT SERVICE CENTER

Date: JAN 09 2007

IN RE:

Petitioner:

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:

[REDACTED]

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 sustained.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Ethiopia, 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. 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 December 19, 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 on August 23, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 23, 2003 and ended on August 23, 2005.

At the time of filing, the petitioner indicated that he has known the beneficiary since December 2001 when he met her at a supermarket in the United Arab Emirates. The petitioner left the U.A.E. in May 2002 and the applicant returned to Ethiopia. The petitioner and the beneficiary continued their relationship from a distance. *Letter from the petitioner, dated November 3, 2005.* In support of his application, the applicant submitted numerous personal letters between him and the beneficiary showing a long distance correspondence. The petitioner also submitted a notarized affidavit from a friend who stated that he met the beneficiary in the U.A.E. with the petitioner. *See affidavit, dated October 31, 2005.* The AAO notes that this affidavit did not specify the date when the friend met the beneficiary in the U.A.E. The Form I-129F was filed on August 23, 2005. Based on the record, the evidence did not establish that the petitioner had complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner submitted his Evaluation Report and Counseling Record from the Navy which stated that he was deployed to Fujairah, U.A.E. from April 29, 2004 to December 10, 2004. *See Naval Evaluation Report and Counseling Record, dated December 10, 2004.* Also submitted into the record was a copy of the beneficiary's Ethiopian passport with entry and exit stamps from the U.A.E. dated October 29, 2004 and November 11, 2004. *See passport.* The record also includes an entry permit into the U.A.E. for the beneficiary. *See entry permit, Ministry of Interior, U.A.E., dated October 26, 2004.* A notarized letter from another friend who was deployed with the petitioner in Fujairah states that the petitioner introduced him to the beneficiary while they were in the U.A.E. in 2004. *See letter written by friend, dated January 26, 2004.*¹ Based on the record, the AAO finds that the petitioner has established that he met the beneficiary within the two years of filing the Form I-129F, and has thus complied with the meeting requirement of section 214(d) of the Act. Therefore, the appeal will be sustained.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The AAO finds that the petitioner has met that burden.

ORDER: The appeal is sustained.

¹While the AAO observes the impossibility of a letter dated January 26, 2004 documenting events to have occurred at a later date in 2004, it also recognizes the possibility of error in that the letter should have been dated January 26, 2005.