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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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JUN 14 2007

FILE:

EAC 03 165 51352

Office: VERMONT SERVICE CENTER

Date:

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 Acting Director, Vermont Service Center denied the nonimmigrant visa petition and the petitioner submitted a motion to reopen that was inadvertently forwarded to the Administrative Appeals Office (AAO). The AAO rejected the motion and remanded the matter to the Service Center for further action. The Director, Vermont Service Center has now affirmed the previous decision and certified the denial to the AAO. The director's decision will be affirmed. The petition will be denied.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Dominican Republic 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).

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 May 8, 2003. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on May 8, 2001 and ended on May 8, 2003.

At the time of filing, the petitioner indicated that he had previously met the beneficiary but failed to indicate when that meeting had occurred. He did not respond to a request for evidence issued by the acting director seeking information on his meeting with the beneficiary. Accordingly, on December 19, 2003, the acting director denied the petition for abandonment pursuant to the regulation at 8 C.F.R. § 103.2(b)(13). At that time, she informed the petitioner that, while he could not appeal the decision, he could file a motion to reopen the petition. The petitioner's subsequent motion to reopen was granted and the acting director issued a second request for evidence notifying the petitioner that the record did not establish that he had met the beneficiary during the specified period and seeking evidence that could establish such a meeting. The petitioner did not respond to the second request for evidence and, on February 9, 2007, the director issued a new decision, affirming the previous denial.

The AAO concludes that the petitioner, although provided with the opportunity to supplement the record, has failed to submit the evidence necessary to establish that he has complied with the meeting requirement of section 214(d) of the Act. Accordingly, it affirms the director's denial of the petition.

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 director's February 9, 2007 decision is affirmed. The petition is denied.