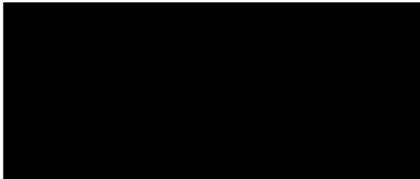




U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

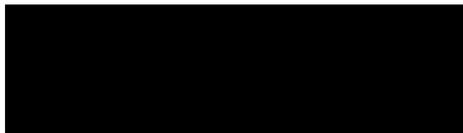
Date: JUN 15 2007

WAC 06 197 53629

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

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 Haiti, as the fiancé 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 petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services (CIS) on June 6, 2006. The director denied the petition after determining that the petitioner had not established that she 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 the meeting requirement would cause the petitioner to suffer extreme hardship or would violate the beneficiary's social customs.

On appeal, the petitioner does not assert that the meeting requirement would violate the beneficiary's social customs, but she explains that she cannot presently travel to Haiti due to the extremely dangerous security situation in that country. She also indicates that she would like her fiancé to come to the United States to help her, as she is experiencing financial difficulties. The AAO has reviewed the entire record and concurs with the director's decision in this matter.

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:

- (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 at § 214.2 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.

According to § 214(d) of the Act, the petitioner and the beneficiary were required to have met during the period that began on June 6, 2004 and ended on June 6, 2006; however, the evidence shows that their most recent meeting took place well before the required period. In a letter dated May 25, 2006, the petitioner wrote that she and the beneficiary have known each other since 1995, when they were both in high school. The petitioner wrote that she emigrated from Haiti to the United States in 2001, and that she returned to Haiti four months later, at which time she and the beneficiary began a serious relationship. The petitioner wrote that she was unable to return to Haiti after that visit, because she fears for her personal safety in that country.

The AAO notes that although § 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Haiti, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a nearby third country. In addition, the financial hardships that arise as a result of a long-distance relationship are commonplace and cannot be considered extreme hardship.

The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances presented in the record, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner, and it has not been claimed that it would violate the beneficiary's foreign culture or social practice. 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.