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U.S. Citizenship  
and Immigration  
Services

D6



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAR 12 2007  
WAC 06 220 51572

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. 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 October 10, 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 July 11, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 11, 2004 and ended on July 11, 2006.

At the time of filing, the petitioner did not indicate whether he had met the beneficiary within the two-year period immediately preceding the filing of the petition. *See Form I-129F*. In response to the Director's request for evidence, the petitioner indicated that he had previously submitted evidence to establish that he had visited the beneficiary in Cuba in September 2001, August 2002, and June 2003. At the time of filing, the petitioner submitted photographs of himself with the beneficiary in Cuba in 2000 and 2003; a photocopy of his Cuban passport showing permission to enter Cuba and entry stamps into Cuba and the United States; and a DVD video of his trips to Cuba.

On appeal, the petitioner notes that he did not comply with the requirement of meeting with the beneficiary within two years of filing the Form I-129F because he was respecting the travel restrictions of the United States. Additionally, he states that the beneficiary could not travel to the United States or a third country to meet him because the Cuban government does not allow citizens to travel outside of the country unless it is for an official government function. The petitioner indicates he returned to Cuba in September 2006. In support of his assertion, he submitted a license from the Department of the Treasury dated August 28, 2006 authorizing his travel to Cuba, copies of his airline tickets, and a photocopy of his U.S. passport with an October 13, 2006 entry stamp into the United States.

The petitioner's trips to meet the beneficiary occurred several years before and two months after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above – July 11, 2004 to July 11, 2006 – and does not satisfy section 214(d) of the Act. The AAO recognizes the petitioner's inability to travel to Cuba within the two-year period immediately preceding the filing of the petition due to the travel regulations established by the United States government. 31 C.F.R. § 515.561. Although the petitioner stated that the beneficiary was unable to travel outside of Cuba, the record fails to include documentation in support of the beneficiary's attempts to obtain permission to leave the country for travel and the Cuban government's response to her requests. Section 214(d) of the Act does not require the petitioner to meet his fiancée in Cuba and the record fails to include documentation to support that he and the beneficiary have explored meeting in another country. The AAO does not find that the petitioner has offered 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.