

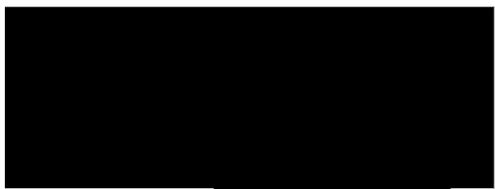
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**U.S. Citizenship
and Immigration
Services**

D6



FILE: [Redacted]
WAC 06 133 54004

Office: CALIFORNIA SERVICE CENTER

Date: MAR 12 2007

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.

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 Nigeria, 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. *Decision of the Director*, dated September 19, 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 April 13, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 13, 2004 and ended on April 13, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had not met within the two-year period immediately preceding the filing of the Form I-129F. In response to the Director's request for evidence, the petitioner submitted a photocopy of his passport showing he was in Nigeria in June 2006. The petitioner also submitted photographs of himself together with the beneficiary.

On appeal, the petitioner states that he met the beneficiary while in college in Nigeria from 1998-2001 and visited the beneficiary in June 2006. The petitioner asserts he was unable to correspond with the beneficiary from 2001-2006 due to the requirements of the church. *Form I-290B and attachment*. He had to give his consent to the beneficiary in December 2005 through the church at which time the beneficiary had to pray and receive consent from the church to see the petitioner. *Id.* The petitioner asserts he could not see the beneficiary because the church had not consented. *Id.* The record does not, however, support the petitioner's claim.

The AAO notes that the record includes a manual written by the Deeper Christian Life Ministry, Ilorin Region entitled "Information for Intending Couples." This manual notes that during the courtship process "visitations to each other should not be done alone for any reason" and "when there is a serious urgent reason to go to the house of each other, go with another physically and spiritually matured believer." While the record is unclear as to the exact date the courtship began, the AAO finds that even if the courtship occurred during the two-year period immediately preceding the filing of the Form I-129F, the petitioner could have met with the beneficiary in the presence of another individual. As such, 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.

The AAO finds the petitioner to have established that he traveled to Nigeria in June 2006 to see the beneficiary. This meeting does not, however, establish compliance with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition since it occurred two months after he filed the Form I-129F rather than within the two-year time period specified above – April 13, 2004 to April 13, 2006. 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 Form 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.