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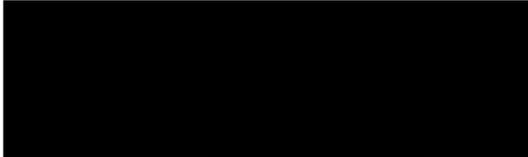
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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Services

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FILE:

WAC 07 011 54097

Office: CALIFORNIA SERVICE CENTER

Date: MAY 22 2007

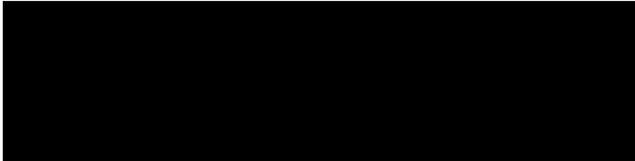
IN RE:

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:



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 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. *Decision of the Director*, dated November 2, 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 the 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 constitutes extreme hardship to the petitioner. Therefore, a claim of extreme hardship is 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 petitioner's power 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 October 12, 2006. The petitioner and the beneficiary are therefore required to have met during the period that began on October 12, 2004 and ended on October 12, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had met "in the days prior to January 9, 2004" when he visited Cuba. He indicated that he did not make a subsequent trip to Cuba so as to comply with U.S. regulations governing travel to Cuba.

On appeal, counsel states that the petitioner visited his relatives and the beneficiary on a trip that ended on January 9, 2004. Counsel states that U.S. regulations restrict travel to Cuba, and the petitioner will violate those regulations if he visits family members in Cuba prior to January 9, 2007. The instant petition, counsel states, was filed on August 30, 2006, and the travel restrictions to Cuba went into effect two years prior to the date of filing. Counsel submits a copy of the petitioner's passport reflecting the entry date of January 9, 2004 into the United States.

The AAO finds that the petitioner fails to satisfy the meeting requirement. The passport page reflecting the entry date of January 9, 2004 into the United States is not sufficient, in itself, to establish that the petitioner was in fact in Cuba and establish that the petitioner met the beneficiary while in Cuba. Furthermore, the petitioner's alleged trip to Cuba that ended on January 9, 2004 occurred more than two years prior to the filing of the instant petition on October 12, 2006. It is not within the two-year time period specified above - October 12, 2004 to October 12, 2006 - and consequently does not satisfy section 214(d) of the Act. Moreover, the record fails to include any documentation indicating that the beneficiary attempted to leave Cuba to meet the petitioner in another country, as the petitioner is not required to meet the beneficiary in his home 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 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. Should the petitioner and beneficiary meet in the future, 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.