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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

D6

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 07 2007
WAC 07 021 53785

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 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 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 had submitted proof of her U.S. citizenship; had provided information regarding the international marriage broker she used; and had personally met the beneficiary 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 March 7, 2007.

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 October 26, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 26, 2004 and ended on October 26, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had met within the two-year period immediately preceding the filing of the Form I-129F; however, the record did not support such an assertion. In response to the Director's request for evidence, the petitioner submitted a copy of her passport with entry and exit stamps to and from Haiti dated 1992, 1995, 1996, 1997, and 1999.

On appeal, the petitioner states that she never used an international marriage broker and that the individual who helped her to prepare the Form I-129F mistakenly checked the box. *Form I-290B*. The petitioner also submitted a copy of her valid U.S. passport and a copy of her U.S. birth certificate. The AAO finds the petitioner to have established that she is a U.S. citizen and that she did not use an international marriage broker. While it finds that the petitioner traveled to Haiti in 1992, 1995, 1996, 1997, and 1999, the AAO notes that these things do not establish compliance with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition.

The petitioner's trips to Haiti occurred several years before she filed the Form I-129F on behalf of the beneficiary. Therefore, her travels did not occur within the two-year time period specified above – October 26, 2004 to October 26, 2006 – and the petitioner has failed to satisfy the requirements of section 214(d) of the Act. Further, 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 her 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. Once the petitioner and beneficiary have met, she 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.