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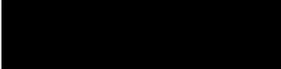
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: FEB 04 2008

EAC 07 247 51789

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:

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, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Lebanon, 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 petitioner had failed to establish that he and the beneficiary had personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. The director also found the record did not provide a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated October 26, 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 August 30, 2007. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on August 30, 2005 and ended on August 30, 2007.

At the time of filing, the petitioner indicated that he had not met the beneficiary within the period just specified. In explanation, the petitioner stated that he and his father had been planning to visit Lebanon in 2006 but were prevented from doing so by the war, that a serious injury to his eye required surgery and the limitation of his activities during a six-month healing process, that political unrest continues in Lebanon, that a member of his family is not well, and that there have been constraints on his time as the result of moving his business to a new city and selling his previous home. The petitioner also submitted a copy of an August 6, 2007 letter to the U.S. embassy in Beirut requesting a U.S. visa for the beneficiary. In the letter, he indicates that the beneficiary has twice been refused a visa to come to the United States and that he cannot travel to Lebanon because of his eye surgery, the ill health of an uncle, and conditions in Lebanon.

In response to the director's request for additional evidence, the petitioner reiterated his concerns about conditions in Lebanon and submitted online articles from the *New York Times*, *China Daily*, and *Reuters* reporting on the violence and instability characterizing Lebanon since 2005. He again indicated the impact of his eye surgery on his ability to travel and noted that the opening of his new one-person office required his presence in the United States. The petitioner also reported that the need to repair damage to his roof from an August 2007 storm and the subsequent breakdown of an underground sewer pump and an air conditioning unit presented additional complications in his life. The petitioner also noted the importance of remaining near his family in light of his uncle's precarious health. In support of his contentions, the petitioner provided a copy of a letter from a Catholic priest, the [REDACTED], attesting to the sincerity of the petitioner's desire to marry the beneficiary in keeping with the customs of the Lebanese people and the requirements of the Catholic Church. He also submitted copies of medical records that demonstrate his eye surgery took place on July 28, 2007 after which he was discharged in the care of his family; a plumbing bill, dated July 31, 2007; an insurance payment for lightning damage that occurred on June 25, 2007 and related evidence of storm damage.

On appeal, the petitioner submits a letter from his doctor, [REDACTED], and a timeline setting forth the events in his life from January 2007 through November 19, 2007. In his letter, [REDACTED] states that he has been treating the petitioner since June 28, 2007 for his eye injury and that following his July 28, 2007 surgery, the petitioner was asked to avoid flying for approximately three months to minimize the chance of secondary sinusitis that could interfere with the bone graft to repair his eye socket. [REDACTED] also indicates that the petitioner's bone graft will be somewhat susceptible to infection for approximately six months and that he has advised him to minimize any activities that would increase the risk of sinusitis, including contact in close places, flying or anything that might expose him to an upper respiratory infection. The timeline developed by the petitioner describes the events in his personal life that have prevented him from traveling to meet the beneficiary in 2007 and his efforts to bring the beneficiary to the United States. On appeal, the petitioner asserts that he is in a unique

situation and that the denial of the Form I-129F reflects an incomplete understanding of the facts he has presented. He states that it was the cumulative effect of his injury, and major personal and professional transitions in life that made it impossible for him to travel.

In a November 12, 2007 letter accompanying the Form I-290B, Notice of Appeal or Motion, the petitioner reviews the circumstances that he believes merit an exemption from the meeting requirement of section 214(d) of the Act, specifically his eye injury, home repair emergencies, his uncle's illness, his opening of a new office, conditions in Lebanon, and the U.S. embassy's denial of the beneficiary's visa petitions. The petitioner also asserts that he and the beneficiary could not have met in a third country because traveling to a third country is difficult for the beneficiary since she requires a travel companion. The petitioner reports that the beneficiary's father, who would normally accompany the beneficiary on such a trip, died in early 2007. The petitioner also notes that the beneficiary and any companion would still have to obtain visas and that meeting in a third country would also not be easy from a financial perspective. He concludes that it is safer for the beneficiary to come to the United States. The petitioner further states that, in Lebanese culture, his commitment to the beneficiary is a serious step and that they may not see other people. He cites the previously submitted letter written by [REDACTED], which, he states, explains that his marriage to the beneficiary is part of Lebanese culture and accepted by the Catholic faith.

The AAO has considered the statements made by the petitioner at filing, in response to the director's request for evidence and on appeal, as well as the submitted evidence. It notes the petitioner's belief that the combination of the events in his personal life and those in Lebanon prevented him from meeting the beneficiary during the specified period and his frustration over what he views as a lack of understanding of his situation. However, despite the applicant's assertions to the contrary, the issues he has raised and the evidence he has presented do not establish a basis on which he may be exempted from the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d).

The AAO acknowledges the political and social unrest in Lebanon since the assassination of Prime Minister Hariri in 2005 and notes that the Department of State has since that time warned U.S. citizens against traveling there. It agrees that country conditions precluded a meeting between the petitioner and beneficiary in Lebanon during the specified period but notes that section 214(d) of the Act does not require that the petitioner travel to the beneficiary's home country, only that the petitioner and beneficiary meet during the two-year period preceding the filing of the Form I-129F. The petitioner contends, however, that he and the beneficiary were also unable to meet outside Lebanon. He asserts that travel to a third country would be difficult for the beneficiary and that her requests for a U.S. visa were twice denied in 2007. He also claims that a series of events in his life, beginning in January 2007, required him to remain in the United States.

The petitioner's August 6, 2007 letter to the U.S. embassy in Beirut indicates that the beneficiary has twice attempted to obtain a visa to the United States and he makes this same claim on appeal. However, the record offers no documentary evidence to support the petitioner's statements, e.g., the U.S. embassy's notification of the beneficiary regarding the denial of her visa applications or its response to the petitioner's letter. The petitioner's statements regarding the difficulties, including financial constraints, that would be faced by the beneficiary in attempting to travel to a third country, other than the United States, are also unsupported by the record. In the absence of any documentary evidence, going on record is not sufficient to meet the petitioner's burden of proof in this proceeding. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft*

of California, 14 I&N Dec. 190 (Reg. Comm. 1972)). Therefore, the record does not demonstrate that the beneficiary was unable to travel to the United States or a third country to meet the beneficiary during the specified period.

The AAO finds the record to contain the documentary evidence necessary to establish the petitioner's June 2007 eye injury and subsequent surgery to repair that injury in July 2007, which would have prevented any air travel on his part for the following six months. However, the petitioner submitted insufficient evidence to demonstrate that he was unable to travel to meet the beneficiary prior to his June 2007 accident on the softball field. While the AAO notes the applicant's claims regarding the serious health problems of his uncle, the relocation of his office and the sale of his house, he has not submitted any documentation to support these claims or to establish the period of time during which he contends they prevented his travel. Again, going on record without documentary evidence is not sufficient to meet the petitioner's burden of proof in this proceeding. *Id.* Moreover, the AAO notes that commitments to family and business regularly confront individuals who wish to travel outside the United States prior to filing Form I-129Fs and, as a result, do not constitute extreme hardship. The AAO also notes that, although the specified period runs from August 30, 2005 until August 30, 2007, the personal events cited by the petitioner as precluding any travel on his part occurred in 2007. He has not asserted that he was unable to travel to meet the beneficiary at a location outside Lebanon prior to 2007. Accordingly, the AAO finds the record to establish only that the petitioner was unable to travel to meet the beneficiary during the final three months of the specified period. He has not demonstrated that travel prior to his June 2007 eye injury would have constituted an extreme hardship.

The record offers insufficient proof to establish that the beneficiary could not have traveled to meet the petitioner in the United States or a third country during the specified period. Further, it demonstrates only that the petitioner was unable to travel to meet the beneficiary during the final three months of the specified period. Therefore, the petitioner has not proven that his compliance with the meeting requirement of section 214(d) of the Act would have constituted an extreme hardship for him, as required to qualify for an exemption under the first criterion at 8 C.F.R. § 214.2(k)(2).

The AAO also notes the petitioner's statements regarding the role that culture plays in his commitment to marry the beneficiary and that his marriage to the beneficiary will be in accord with Lebanese customs and the requirements of the Catholic Church. He does not indicate that a meeting with the beneficiary during the specified period would have violated any strict and long-established customs of her culture or social practice. Accordingly, the record also fails to establish that the petitioner is eligible for an exemption from the meeting requirement based on the second criterion of the regulation at 8 C.F.R. § 214.2(k)(2).

As the petitioner and beneficiary did not meet during the specified period and the record does not establish that compliance with the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d) would have constituted an extreme hardship for the petitioner or violated the beneficiary's cultural or social customs, the appeal will be dismissed.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F petition on her behalf so that a new two-year period in which the parties are required to have met 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. The petition is denied.