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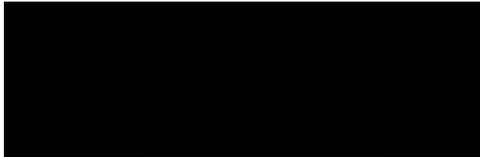
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

EAC 07 235 52359

Office: VERMONT SERVICE CENTER

Date:

JUL 25 2008

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.

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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of El Salvador, 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 that the petitioner had failed to submit evidence of the termination of his second marriage. *Decision of the Director*, dated January 28, 2008.

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 (CIS) on July 27, 2007. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on July 27, 2005 and ended on July 27, 2007.

At the time of filing, the petitioner indicated that he had not met the beneficiary during the specified period and asked to be exempted from the meeting requirement. He stated that he is returning to school and that juggling his classes with full-time employment would make it difficult to leave the United States. In response to the director's request for evidence of the petitioner's compliance with the meeting requirement or that such compliance would have resulted in extreme hardship to him or have violated the beneficiary's customs, the petitioner submitted a statement indicating that he had not met the beneficiary for financial reasons and that his classes at Angelo State University would make it difficult to travel to El Salvador. He further provided copies of documentation related to his divorce from his second spouse, but failed to submit a final divorce decree.

On appeal, the petitioner submits his divorce decree for his second marriage; the first page of a 1966 precedent decision issued by the Board of Immigration Appeals (BIA), *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966), in an immigrant visa case; a statement from the petitioner asking that he be allowed to meet the beneficiary during his spring break from his college classes; and media reports on illegal immigration.

The petitioner has stated that financial reasons prevented him from meeting the beneficiary during the specified period and that educational commitments now make it difficult for him to leave the United States. Accordingly, he requests an extension of the meeting period to allow him to meet the beneficiary during his spring break. The AAO notes, however, that the length of the meeting period for individuals who wish to petition for their fiancées is imposed by statute and that only in cases where compliance with the meeting requirement would have resulted in extreme hardship for the petitioner or have violated the customs of the beneficiary's culture or social practice may exemptions be granted. See 8 C.F.R. § 214.2(k)(2). Although the petitioner has indicated that financial reasons precluded his travel to meet the beneficiary between August 9, 2005 and August 9, 2007, he has submitted no evidence in support of this claim. Going on record without supporting documentation is not sufficient to meet the applicant'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)). Moreover, financial concerns routinely confront individuals who wish to file Form I-129Fs and do not, therefore, constitute extreme hardship for the purposes of this proceeding. The AAO also notes that section 214(d) of the Act does not require the petitioner to travel to El Salvador. It stipulates only that the petitioner and beneficiary meet during the two-year period immediately preceding the filing of the Form I-129F, not that the petitioner travel to the beneficiary's home country. Therefore, the petitioner could have satisfied the statutory requirement by meeting the beneficiary at a location outside El Salvador, including the United States. The record, however, offers no indication that the petitioner and beneficiary explored such options.

Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship for him or that it 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, 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.