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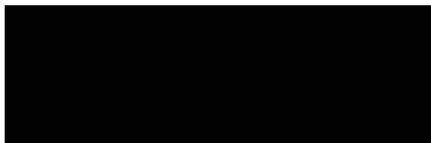
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

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PUBLIC COPY



FILE: [Redacted] EAC 08 034 51071

Office: VERMONT SERVICE CENTER

Date: **JUL 25 2008**

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, Vermont 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 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 failed to establish that the petitioner and the beneficiary had personally met during the two-year period that preceded the date of filing, as required by section 214(d) of the Act. The director also found no basis on which to exempt the petitioner from the meeting requirement. *Decision of the Director*, dated January 17, 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 at section 214.2 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 November 14, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 14, 2005 and ended on November 14, 2007.

At the time of filing, the petitioner indicated that he had previously met the beneficiary, but did not state whether that meeting had occurred within the period of time just noted. He submitted a travel license from the Office of Foreign Asset Control, Department of Treasury authorizing his travel to Cuba, dated June 29, 2005. In response to the director's November 28, 2007 request for evidence, the petitioner submitted a copy of his July 11, 2005 flight reservation with Wilson International Service, Inc., a charter airline licensed by the U.S. Government to fly to Cuba, and an affidavit attesting that he had met the beneficiary while visiting Cuba in July 2005. While the AAO finds the record to establish that the petitioner traveled to Cuba in July 2005, it does not demonstrate that he has satisfied the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d), as it relates to the Form I-129F he filed on November 14, 2007.

On appeal, the petitioner contends that his July 2005 meeting with the beneficiary is recent enough to satisfy the meeting requirement of section 214(d) of the Act. Alternately, he asks for an exemption from the meeting requirement as communication with and travel to Cuba is a tremendous hardship for family members of persons living in Cuba.

The AAO notes that the meeting requirement imposed on individuals who wish to petition for their fiancées is statutory 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, on appeal, states that travel to Cuba is a tremendous hardship for family members of persons living in Cuba, the difficulty of traveling to Cuba does not exempt him from the meeting requirement. Section 214(d) of the Act does not require the petitioner to travel to Cuba. It stipulates only that the petitioner and beneficiary meet during the two-year period immediately preceding the filing of a 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 Cuba, including the United States. There is, however, no indication in the record 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.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Should the petitioner and beneficiary meet, the petitioner may file another Form I-129F petition on the beneficiary's 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.