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U.S. Citizenship
and Immigration
Services

[redacted]

DL6

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAY 05 2004
SRC 02 228 52681

IN RE: Petitioner:
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 of the Administrative Appeals Office 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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas 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 Suriname, 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 not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *See* Decision of the Director, dated October 7, 2002.

Section 101(a)(15)(K) of 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 the Immigration and Naturalization Service [now Citizenship and Immigration Services] on July 23, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 23, 2001 and ended on July 23, 2003.

In support of the Form I-129F petition, the petitioner submitted a letter stating that he and the beneficiary last met on or about May 24, 2000. *See* Letter from dated August 10, 2002. The assertions of the petitioner are supported by a copy of the U.S. passport of the petitioner reflecting an entry stamp at Miami on May 24, 2000. The petitioner states that, owing to the long delays presented by international mail and the time commitment of international travel, he was unable to file the Form I-129F petition within two years of meeting the beneficiary. The record contains a letter from the petitioner's employer substantiating the petitioner's assertions regarding his inability to take vacation time from work. *See* Letter from dated August 12, 2002.

On appeal, the petitioner submits a letter reiterating his previous claims and stating that he provided the beneficiary with money to pay for an airline ticket to visit him in the United States, but the beneficiary was denied a visitor visa. *See* Letter from dated October 24, 2002.

The petitioner's lack of time to travel to Suriname does not constitute extreme hardship to the petitioner pursuant to 8 C.F.R. § 214.2(k)(2). The time commitment required for travel to a foreign destination is a common requirement to those filing a Form I-129F petition. Further, the AAO notes that while the petitioner and the beneficiary are required to meet pursuant to section 214(d) of the Act, the statute does not require the petitioner to travel to the beneficiary's home country. The record contains no evidence to substantiate the beneficiary's attempt to obtain a visitor visa to the United States and the record does not demonstrate that the petitioner and the beneficiary explored other options for meeting as required by the Act.

The evidence of record does not establish that the petitioner and beneficiary met as required. Further, the record does not establish that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign 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. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.