U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: VERMONT SERVICE CENTER Date: NOV 22 2005
EAC 04 233 53583

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 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, 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 Russia, 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 and the beneficiary had not personally met within the two years immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. *Decision of the Director,* dated January 19, 2005.

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 August 18, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 18, 2002 and ended on August 18, 2004.

At the time of filing, the petitioner stated he and the beneficiary had known one another while he served with the U.S. military in South Korea, but provided no specific dates. In response to the director's request for evidence, the petitioner provided a statement in which asserted that he had met the beneficiary in South Korea in August 2001 and that she did not return to Russia until August 2002. He also submitted documentation of his military service in the form of pay deposits to his New York bank, and several undated photographs. However, the pay deposits and the photographs do not prove that the petitioner and the beneficiary met during the specified period. Nor are the petitioner's statements evidence that he met the beneficiary between August 18, 2002 and August 18, 2004. Going on record without supporting documentation will not satisfy the petitioner's burden of proof in these proceedings. *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)). Accordingly, the record does not establish that the petitioner has complied with the meeting requirement found at section 214(d) of the Act, 8 U.S.C. § 1184(d).

The AAO also finds that the record does not provide a basis for exempting the beneficiary from compliance with the meeting requirement. Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find the record to establish that compliance with the meeting requirement would have resulted in extreme hardship to him or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of section 214(d) of the Act.

In response to the director's request for evidence, the petitioner contends that he twice unsuccessfully attempted to bring the beneficiary back to South Korea following her return to Russia and that his own request for leave to visit her in Russia was denied. However, the record contains no evidence to support the petitioner's statements and his statements, alone, do not constitute evidence of his efforts to comply with the meeting requirement. *Matter of Soffici*. On appeal, the petitioner submits a copy of a "letter of invitation" that he states is proof of his efforts to marry the beneficiary in South Korea. He states that her visa was denied by Russian officials.

However, this letter of invitation, which does indicate it is for the purpose of marriage, is dated October 17, 2001, a time when the beneficiary has stated that the beneficiary was with him in South Korea. Accordingly, it contradicts the petitioner's earlier statements regarding the period in which he states he was in personal contact with the beneficiary, i.e., from August 2001 to August 2002. Further, with its 2001 date, the letter does not establish that the petitioner and beneficiary made efforts to meet during the specified period of August 18, 2002 and August 18, 2004. Accordingly, the appeal will be dismissed.

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.