U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

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FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 07 2005

EAC 04 255 52840

IN RE: Petitioner: [redacted]
Beneficiary

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

[redacted]

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

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Eritrea, as the fiancée of a United States citizen pursuant to § 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 § 214(d) of the Act.

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. . . .

The record establishes that the petitioner and beneficiary became acquainted in early 2003 through mutual friends, and they have communicated by telephone and mail since that time. The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services (CIS) on September 13, 2004; therefore, he and the beneficiary were required to have met during the period that began on September 13, 2002 and ended on September 13, 2004. The record reflects that they did not comply with this requirement.

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 § 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 not within the power of the petitioner to control or change and are likely to endure for a lengthy period or are of undetermined duration.

The record reflects that the beneficiary applied for and was denied visas to Italy and Germany, where she has friends with whom she may stay during a potential visit from the petitioner. The beneficiary also intended to apply for a U.S. visitor visa, but consular personnel in [redacted] informed her that they would not be able to grant her a tourist visa given her circumstances. The evidence shows that the beneficiary has attempted to travel to a third country in order to meet the petitioner, without success.

The petitioner was granted asylum in the United States due to his fear of returning to Eritrea; therefore, it would be unreasonable to expect him to travel to his native country to meet with the beneficiary. He also does not want to risk travelling to Saudi Arabia, where the beneficiary lives, as he fears for his personal safety there on account of his U.S. nationality and his status as a Christian deacon. The record contains a U.S. State Department travel warning issued December 10, 2004 which strongly urges U.S. citizens to defer travel to Saudi Arabia, and for private U.S. citizens to depart that country due to the danger of terrorist attacks on Americans. The AAO considers that, given the travel warning, it would also be unreasonable to expect the petitioner to travel to Saudi Arabia to meet the beneficiary. The AAO notes that the petitioner and beneficiary would also run the risk of harassment by government officials or private individuals were it possible for them to meet personally in Saudi Arabia, due to cultural strictures against socializing between unrelated persons of the opposite sex.

The AAO finds that the evidence on the record establishes that requiring the petitioner and beneficiary to meet in person would cause the petitioner extreme hardship; therefore, the petitioner is exempted from this requirement, pursuant to 8 C.F.R. § 214.2(k)(2)

ORDER: The appeal is sustained and the application is approved.