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

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: DEC 20 2007

EAC 07 069 50467

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.

Ellen C. Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Center 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 Cambodia, as the fiancé 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 Center Director denied the petition after determining that the record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. He further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Center Director,* dated May 14, 2007.

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 on January 11, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 11, 2005 and ended on January 11, 2007.

At the time of filing, the petitioner indicated that she and the beneficiary had met in December 2003 when she traveled to Cambodia to see him. In support of her statement, the petitioner submitted a copy of her travel itinerary showing she traveled to Cambodia in December 2003 and departed in January 2004. The petitioner also submitted photographs of herself with the beneficiary. In her response to a request for evidence to show that she had met with the beneficiary within the two-year filing period, the petitioner submitted two letters, one from the Chief of the monks of [redacted] and another from the Chief of [redacted]. The letter from the Chief of the monks of [redacted] states that an engaged couple cannot meet each other after their engagement, while the letter from the Chief of [redacted] Commune states that an engaged couple cannot meet each other in any way that is inappropriate, i.e., have physical contact prior to their marriage. The AAO concurs with the Center Director's finding that these letters contradict one another and thus diminish their evidentiary value. Furthermore, the AAO notes that satisfying section 214(d) of the Act requires only that the petitioner and beneficiary meet, not that they have physical contact of any type.

On appeal, the petitioner states that she has been unable to comply with the two-year meeting requirement because she works full-time and is a part-time student. While the AAO acknowledges the petitioner's responsibilities, it notes that having to take time off from work and school to meet the beneficiary is part of the normal process of filing the Form I-129F and does not constitute an extreme hardship to the petitioner. The petitioner further asserts that her parents are the appropriate people to chaperone her meeting with the beneficiary, but that her mother is unable to travel due to a disability and her father has diabetes and a fractured skull sustained when he was a soldier during the war in Cambodia. The AAO notes that the record fails to include supporting documentation from a licensed healthcare practitioner confirming the health conditions of the petitioner's parents. Going on record without supporting documentary evidence will not meet the burden of proof of 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)). The record also fails to establish that the applicant's parents are the only appropriate people to chaperone her to meet with the beneficiary. Moreover, the petitioner has presented no evidence that she and the beneficiary have explored meeting in another country, including the United States, to satisfy the requirements of section 214(d) of the Act.

While the AAO finds the petitioner to have established that she traveled to Cambodia in December 2003 and January 2004, she has not, however, established compliance with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition. The petitioner's trip to meet the beneficiary occurred several years before she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has established that she has met the beneficiary, this meeting did not occur within the two-year time period specified above –

January 11, 2005 to January 11, 2007 -- and does not satisfy section 214(d) of the Act. Further, the petitioner has offered insufficient evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her or that such a meeting 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. Once the petitioner and beneficiary have met, she may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period 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.