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

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: DEC 27 2007

WAC 07 070 53005

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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California 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 Lebanon, 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 failed to establish that he had met the beneficiary within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, or that such a meeting would have resulted in extreme hardship or would have violated the customs of the beneficiary's culture or social practice. *Decision of the Director,* dated May 22, 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 9, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 9, 2005 and ended on January 9, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met. Form I-129F, dated November 8, 2006. On April 5, 2007 the director requested that the petitioner submit additional information. In response to this request the petitioner submitted a statement and medical records. He stated that he was requesting a hardship exemption because of the political situation in Lebanon and his medical condition. *Petitioner's Statement,* dated April 10, 2007. The petitioner's medical records indicate that he has a history of coronary artery bypass and also has possible sleep apnea, carotid disease and suffers from stress and anxiety. *Letter from Dr.* [redacted], dated February 7, 2007. The petitioner's doctor states that he feels that it would be in the petitioner's best interest to have someone with him day and night to monitor his various health conditions. *Id.*

On appeal, the petitioner states that Lebanon is a danger zone and he was afraid to travel there before he filed the petition. *Form I-290B,* dated June 17, 2007.

While the AAO acknowledges the petitioner's health concerns and his fears regarding travel to Lebanon, it finds neither to establish that a meeting with the beneficiary during the specified period would have constituted an extreme hardship for him. The letter from the applicant's physician states that the applicant has had a coronary bypass and potentially suffers from sleep apnea and carotid disease. He also indicates that the petitioner suffers from stress and anxiety. The letter, however, does not indicate that any of these conditions would prevent the petitioner from traveling to meet the beneficiary or that they could not be treated outside the United States. Further, while the AAO notes that U.S. citizens are advised against travel to Lebanon, section 214(d) of the Act requires only that the petitioner and the beneficiary meet. It does not require the petitioner to travel to the beneficiary's home country. The record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Lebanon, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country. The AAO also notes that there is no time requirement regarding the length of the meeting between the petitioner and beneficiary. Thus, the petitioner has not established that meeting the beneficiary would cause an extreme hardship for him.

The denial of the petition is without prejudice. After the petitioner and beneficiary have met, the petitioner 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. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.