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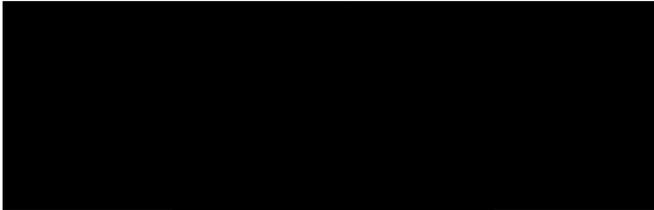
U.S. Department of Homeland Security  
20 Massachusetts Avenue NW, Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



EAC 06 137 51327

Office: VERMONT SERVICE CENTER

Date: JUN 05 2007

IN RE:

Petitioner:

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:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States. The beneficiary is a native and citizen of Haiti. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior to the April 7, 2006, filing date of the visa petition. The director determined that the evidence did not establish that the meeting requirement would cause the petitioner to suffer extreme hardship. The director also noted that the petitioner had failed to submit the supplement to the Form I-129F which was mailed to him on June 19, 2006.

On appeal, the petitioner states that the cost of traveling to Haiti is prohibitive, given his many financial responsibilities. The petitioner further explains that he suffers severe ear pain when flying due to the pressure inside the aircraft. Finally, he asserts that every time he has travelled to Haiti he has been struck with diarrhea, which takes days to clear up. The AAO also notes that in his response to the director's request for evidence, the petitioner stated that he feared travelling to Haiti due to the insecurity and unrest in that country.

On appeal, the petitioner submits financial documentation to establish his major expenses and numerous phone cards to show that he and the beneficiary have maintained constant communication. The AAO has reviewed the entire record in rendering this decision on appeal.

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), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed.

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 (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.

In the instant case, it appears that the petitioner and beneficiary met personally over two years prior to filing the petition. The petitioner states that he cannot return to Haiti due to health concerns and personal risk. The AAO notes that although § 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Haiti, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or another country. Furthermore, the financial commitment required for travel to a foreign country is a common requirement to those filing the Form I-129F petition and does not constitute extreme hardship to the petitioner. Finally, the petitioner has not submitted documentation to establish that the pain he experiences inside the aircraft rises to the level of extreme hardship.

Under § 214(d) of the Act, the petitioner and the beneficiary were required to have met between April 7, 2004 and April 7, 2006. The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find 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.

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. 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.

**ORDER:** The appeal is dismissed.