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

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: MAR 1 2 2007

EAC 06 107 51362

IN RE: Petitioner: [redacted]
Beneficiary:

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, 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 Haiti, 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 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 Director,* dated September 7, 2006.

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 February 21, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 21, 2004 and ended on February 21, 2006.

At the time of filing, the petitioner indicated that she had gone to Haiti once and had the chance to meet the beneficiary. The record includes a photocopy of the petitioner's passport showing Haitian entry and exit stamps from 2000, 2001 and 2002, and photographs of herself with the beneficiary. In response to the Director's request for evidence, the petitioner indicated that she was unable to return to Haiti because of the political instability there and because she was assisting her sister through a difficult pregnancy in 2002.

On appeal, the petitioner states that she met with the beneficiary again in August 2006 in Haiti. In support of this statement, she submitted a photocopy of her passport with exit and entry stamps from Haiti, her e-ticket confirmation/record, her boarding pass, and photographs of herself with the beneficiary. While the AAO finds the petitioner to have established that she traveled to Haiti in August 2006, she has not, however, complied with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition.

The petitioner's trips to meet the beneficiary occurred several years before and six months after she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has established that she has met the beneficiary, these meetings did not occur within the two-year time period specified above – February 21, 2004 to February 21, 2006 – and do not satisfy section 214(d) of the Act. While the AAO acknowledges the petitioner's concerns about traveling to Haiti during a politically unstable time, it notes that the petitioner is not required to meet her fiancé in Haiti and could have explored the possibility of meeting in another country, including the United States. 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. She has not indicated 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. As 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.