U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAY 22 2007
WAC 06 133 51908

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:

[redacted]

PUBLIC COPY

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 Director, California 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 Vietnam, 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 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. *Decision of the Director,* dated November 6, 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 the 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 constitutes extreme hardship to the petitioner. Therefore, a claim of extreme hardship is 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 petitioner's power 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 March 20, 2006. The petitioner and the beneficiary are therefore required to have met during the period that began on March 20, 2004 and ended on March 20, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had known each other since 1980, and as a result of renewing their relationship in 1995, she traveled to Vietnam in 1995, 1996, and 1997. In response to the director's request for evidence, which sought evidence establishing that the petitioner met the beneficiary in person within the required time period, the petitioner submitted a letter, airline tickets, and other documents. The director found the evidence unpersuasive in establishing the required meeting.

On appeal, the petitioner submits a letter from [redacted] Executive Director, Oklahoma Capitol Complex and Centennial Commemoration Commission; copies of boarding passes, dated September 26, 2006 and October 17, and issued to the petitioner; and undated photographs purported to be of an engagement party in October 2006.

The AAO finds that the submitted evidence fails to establish that the petitioner and beneficiary met in person during the period that began on March 20, 2004 and ended on March 20, 2006. The petitioner therefore fails to establish the meeting requirement of section 214(d) of the Act.

Furthermore, the evidence offered by the petitioner, which is the letter from [redacted], is insufficient to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for the petitioner. The letter states that the petitioner and the beneficiary have been dating since 1981 and "due to extenuating circumstances were unable to see each other between March 19, 2004, [sic] and March 20, 2006." The extenuating circumstances are not described in the letter; the AAO is therefore not able to determine whether they would have constituted an extreme hardship for the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

No evidence in the record suggests that a meeting would have violated the customs of the petitioner's or beneficiary's culture or social practice.

The appeal will therefore be dismissed. The denial of the petition is without prejudice. As it appears the petitioner and beneficiary met in October 2006, she may file a new I-129F petition, with supporting documentation, on the beneficiary's behalf within the new two-year meeting period.

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.