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

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DOB

SEP 07 2007

FILE:

WAC 07 008 51500

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:

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

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 sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the United Kingdom, 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. *Decision of the Director*, dated February 7, 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 October 6, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 6, 2004 and ended on October 6, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had met within the two-year period immediately preceding the filing of the Form I-129F. On January 11, 2007 the Director requested evidence from the petitioner regarding the circumstance and last meeting between the petitioner and the beneficiary. In response to the Director's request for evidence, the petitioner submitted photographs of the beneficiary, a statement from the petitioner saying that at the end of May 2006 she visited the beneficiary in England for three weeks; a copy of the petitioner's travel itinerary showing a trip to England with the arrival and return dates of May 28, 2006 and June 17, 2006; dated receipts from London's Gatwick airport and other locations in the United Kingdom; a copy of the petitioner's passport with entry and exit stamps for the United Kingdom; and copies of the petitioner's boarding passes and baggage claim stickers.

On appeal, the petitioner submits emails between herself and the beneficiary; letters from friends verifying their relationship; and photographs of the petitioner with the beneficiary taken in June and July 2007. The AAO notes that the record includes a statement from the petitioner explaining that she and the beneficiary did not take any photographs together during her trip to the United Kingdom because either she or the beneficiary was always holding the camera. *See Statement from the petitioner.* The AAO also acknowledges that the petitioner visited Devon on June 6, 2006, the beneficiary's place of residence. *See entry stamp on passport of the petitioner; See Also Form G-325A, Biographic Information sheet for the beneficiary listing Devon as his place of residence.*

Based on the copies of the petitioner's passport with exit and entry stamps for the United Kingdom and proof that she visited Devon; and the copies of her travel itinerary, boarding pass, and baggage claim stickers, the AAO finds the petitioner to have established that she traveled to the United Kingdom within the two-year time period specified above – October 6, 2004 to October 6, 2006 – and met the beneficiary. Therefore, the appeal will be sustained.

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 met that burden.

ORDER: The appeal is sustained.