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

U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: AUG 12 2008

EAC 07 267 52758

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.

Elena C. Johnson

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 sustained.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Ethiopia, 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 failed to establish that he and the beneficiary met 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 constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated February 11, 2008.

The petitioner indicated on his Form I-290B that he would be submitting a brief and/or additional evidence to the AAO within 30 days. The AAO notes that it has now been over 120 days since the petitioner's Form I-290B was submitted and no additional documentation has been received. Therefore, the current record will be considered the complete record.

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 September 28, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 28, 2005 and ended on September 28, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met. *Form I-129*, dated August 24, 2007. He states that he met the beneficiary through his father who travels to Greece once a year. He states that he is completing forms so that the beneficiary can come to the United States and visit him. He asserts that he was born in Greece, but is unable to travel there because he never fulfilled his mandatory military service and would be at risk for prosecution. *Id.*

On January 7, 2008, the Director requested additional documentation showing that the petitioner and beneficiary have met during the two-year time period prior to the filing of the Form I-129F or that meeting the beneficiary during the two-year time period prior to filing would have resulted in extreme hardship. In response to the director's request for documentation, the petitioner submitted a letter, which states that he will be traveling to Greece in March 2008. *Petitioner's Letter*, dated January 29, 2008.

On appeal, the petitioner states that the beneficiary applied for a tourist visa to the United States in August 2007 and was denied. *Form I-290B*, dated March 5, 2008. He also states that his father made a payment in Greece so he does not have to serve in the Greek military anymore and is now able to travel to Greece. The petitioner states that he will be traveling to Greece on March 20, 2008 and will forward documentation of this meeting to the AAO by April 7, 2008. *Id.* The petitioner submits the visa denial letter from the U.S. Embassy in Athens, Greece showing that the beneficiary applied for a tourist visa and was denied on August 1, 2007.

The AAO notes that the record does not contain supporting documentation to show that traveling to meet the beneficiary during the two-year time period required would have caused extreme hardship. No documentation was provided to support the claims made by the petitioner concerning the possibility of his being prosecuted upon visiting Greece for his non-compliance with mandatory military service. In addition, although the petitioner provided documentation showing that the beneficiary could not travel to the United States to meet him, the petitioner provided no documentation showing that he could not have met the

beneficiary in a third country. Thus, the record does not support a finding that a meeting between the petitioner and beneficiary would have resulted in extreme hardship. Therefore, the appeal will be dismissed.

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.

ORDER: The appeal is dismissed.