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

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JAN 11 2008

WAC 07 081 54225

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.

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 Haiti, 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 meeting the beneficiary within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, would result in extreme hardship. *Decision of the Director,* dated May 3, 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 January 23, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 23, 2005 and ended on January 23, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary have known each other since before 1995, but had not met in the two-year period prior to filing because of the country conditions in Haiti. *Form I-129*, January 8, 2007.

On appeal, the petitioner submits a statement and documentation of his frequent trips to Haiti and one trip to the Dominican Republic. He explains that he came to the United States in February 2000 and from 2001 to 2004 he traveled to Haiti every year to visit the beneficiary. *Petitioner's Statement*, dated May 26, 2007. He states that in July 2004, during his last visit to Haiti, his friend was shot and killed. The petitioner asserts that after this tragedy, he and the beneficiary decided that it was no longer safe to meet in Haiti. In March 2005, the petitioner states that he traveled to the Dominican Republic to meet the beneficiary in the border town of Dajabon. He states that the beneficiary was not able to travel to Dajabon because of political disturbances in Haiti. He states that there was no transportation going from Cap-Haitian to the border for a couple of weeks. *Id.* The AAO notes that the petitioner submits a copy of his passport showing trips to Haiti in July 2001, March 2002, May 2003 and July 2004. His passport also indicates a trip to the Dominican Republic from March 29, 2005 to April 9, 2005.

The AAO notes that the State Department currently has an ongoing travel warning posted for U.S. citizens traveling to Haiti. The current Travel Warning, which updates the Travel Warning issued January 10, 2007, states that it is being issued to remind American citizens of ongoing security concerns in Haiti, including frequent kidnappings of Americans for ransom. *State Department Travel Warning*, dated August 31, 2007. The warning strongly advises U.S. citizens to thoroughly consider the risks before traveling to Haiti, and to take adequate precautions to ensure their safety if traveling to Haiti. *Id.* The warning goes on to state that U.S. citizens traveling to and residing in Haiti are reminded that there is a chronic danger of violent crime, especially kidnappings. *Id.*

The AAO acknowledges the petitioner's concern regarding travel to Haiti. However, the AAO notes that although section 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 on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Haiti or the Dominican Republic, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a country bordering the United States. Thus, the record does not support a finding that a meeting between the petitioner and beneficiary during the specified period would have resulted in extreme hardship.

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. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.