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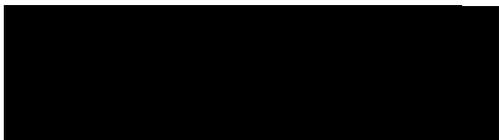
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

WAC 07 211 52052

Office: CALIFORNIA SERVICE CENTER

Date: JUL 28 2008

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, 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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Eritrea, 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 had failed to establish that he and the beneficiary had personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. The director also found the record failed to establish a basis on which the petitioner could be exempted from the meeting requirement. *Decision of the Director*, dated February 28, 2008.

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 (CIS) on July 6, 2007. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on July 6, 2005 and ended on July 6, 2007.

At the time of filing, the petitioner indicated that he had met the beneficiary in August 2005 for their engagement ceremony. In response to the director's request for evidence of a face to face meeting with the beneficiary during the specified period, the petitioner stated that he was unable to obtain a copy of the Eritrean identity card he had used to enter Eritrea in August 2005. Instead, he submitted a copy of his refugee travel document, which shows a U.S. admission stamp for September 22, 2005; money transfers addressed to the beneficiary and an envelope addressed to the petitioner from the beneficiary.

On appeal, the petitioner states that his travel document was not stamped when he entered or exited Eritrea in August 2005 and that he continues to be unsuccessful in obtaining the form he filled out upon his arrival. As proof of his August 2005 meeting with the beneficiary, he submits duplicates of the airline tickets issued to him by the Omega Travel Service.

The AAO notes that the copies of the tickets submitted by the applicant show they were issued to him in July 2005 for round-trip travel between Las Vegas and Asmara, with a departure date of August 7, 2005 and a return date of September 22, 2005. The AAO finds this evidence and the September 22, 2005 admission stamp in the applicant's U.S. refugee travel document to be sufficient to establish, by a preponderance of the evidence, that the applicant and beneficiary met within the specified period. Therefore, the petitioner has established his compliance with the meeting requirement of section 214(d) of the Act. 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 his burden.

**ORDER:** The appeal is sustained.