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

U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D.C

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JUN 25 2008

EAC 07 175 52081

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:

[redacted]

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, Vermont 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 Liberia, 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 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 November 15, 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 June 4, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 4, 2005 and ended on June 4, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had met in 1999 in Liberia and that in 2004 he returned to Liberia and stayed with the beneficiary for six weeks. *Form I-129*, dated March 20, 2007.

On October 12, 2007, the Director requested the petitioner submit two passport style photographs of himself and documentation showing that he and the beneficiary had met at some time during the required two-year period prior to the filing of the petition or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. In response to the director's request for documentation, the petitioner submitted passport-style photographs of himself, an affidavit, a letter from his doctor and the section on Liberia from the 2006 U.S. Department of State Country Reports on Human Rights Practices. In his affidavit, the petitioner states that he has been unable to travel to Liberia to visit his fiancée because of his medical condition and country conditions in Liberia. *Petitioner's Affidavit*, dated October 29, 2007. The petitioner states that he suffers from Type 2 diabetes mellitus, for which he takes daily insulin injections and requires blood testing on a regular basis. He states that because of this condition he has been unable to travel to Liberia where medical care is unavailable. *Id.* In support of his assertions, the petitioner submits a letter from his doctor, [redacted] and the referenced U.S. State Department country report for Liberia. [redacted] states that the petitioner has been under his care for several years for Type 2 diabetes mellitus. *Letter from* [redacted], dated October 26, 2007. The 2006 U.S. State Department Report on Liberia establishes that the country has many human rights problems, but does not discuss the quality and availability of medical care.

On appeal, counsel submits a letter and further information regarding conditions in Liberia. Counsel submits a Consular Information Sheet for Liberia, dated June 15, 2007 which states "[t]hat the Department of State urges U.S. citizens to plan proposed travel to Liberia carefully and to exercise caution when traveling in Liberia." The Consular Information sheet also states that hospital and medical facilities in Liberia are very poorly equipped and are incapable of providing many services. Counsel states in his letter that the options given in the Director's decision regarding the petitioner meeting the beneficiary during the two-year time period prior to filing the Form I-129F are not reasonable or practical. He asserts that because the petitioner, through his filing of the Form I-129F, has expressed his intent to make the beneficiary an immigrant to the United States, the beneficiary would be disqualified from obtaining a nonimmigrant, tourist visa.

The AAO notes, however, that the petitioner is required to show that a meeting with the beneficiary would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice during the two-year time period prior to filing the Form I-129F. Thus, during the specified period the petitioner had not yet

expressed his intent to bring the beneficiary to the United States as a nonimmigrant and the beneficiary might have been eligible for a visitor's visa to the United States.

The AAO recognizes that the petitioner's medical condition precluded his travel to Liberia. However, the record does not establish that the petitioner and beneficiary could not have met in a third country. No documentation was provided to show that the petitioner and beneficiary explored the options for such a meeting. The AAO notes that the record must establish that these options have been explored before it can determine that a meeting within the two-year time period prior to filing the Form I-129F would constitute an extreme hardship. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. After the petitioner and beneficiary have met again, 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.