U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: MAR 1 8 2008

EAC 07 175 52097

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, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Nigeria, 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. He further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director,* dated November 5, 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 she and the beneficiary had previously met in 2001 during a high school sporting event, but that they had not met during the two-year time period preceding the filing of the Form I-129F. *Form I-129F*, dated May 31, 2007. The petitioner states that during the last two years she has been enrolled in school and living on financial aid, and that it would have been a hardship for her to travel to Nigeria to meet her fiancé. *Letter from Petitioner*, undated.

On appeal, the petitioner states that after her Form I-129F was denied, she traveled to Nigeria to meet her fiancé. *Form I-290B*, dated December 5, 2007. She submits copies of pages from her passport showing entry and exit stamps for a November 24 to December 2, 2007 trip to Nigeria. The record also contains photographs of the petitioner and beneficiary together.

While the AAO finds the petitioner to have established that she traveled to Nigeria in November 2007, she has not complied with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition. The petitioner's November 2007 trip to meet the beneficiary occurred five months after she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has established that she has met the beneficiary, this meeting did not occur within the two-year time period specified above and does not satisfy section 214(d) of the Act.

The petitioner has stated that because she was a student living on financial aid, it was impossible for her to visit her fiancé during the specified time period. However, the need to balance the costs of overseas travel with other financial commitments is faced by many individuals who wish to file Form I-129Fs. Accordingly, such obligations do not constitute extreme hardship under the regulation at 8 C.F.R. §214.2(k)(2). Moreover, although section 214(d) of the Act requires that the petitioner and the beneficiary 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 Nigeria, including, but not limited to, the beneficiary traveling to meet the petitioner in the United States or a bordering country. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, she 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.