U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: **DEC 0 8 2009**

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 of the Administrative Appeals Office 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
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 U.S. citizen who seeks to classify the beneficiary, a native and citizen of Haiti, as the fiancé(e) of a U.S. citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the record contains no evidence that the petitioner and the beneficiary have personally met within the two years immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. The director also found that the petitioner did not submit G-325A, Biographic Information forms for himself and the beneficiary. On appeal, the petitioner submits a copy of his U.S. passport. The petitioner indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. To date, no further submission has been received. Accordingly, the record is considered to be complete as it now stands.

Section 101(a)(15)(K)(i) of the Act defines "fiancé(e)" as:

> Subject to subsection (d) and (p) of section 214, an alien who –
>
> > (i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission . . . .

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

> [s]hall 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 U.S. Citizenship and Immigration Services (USCIS) on July 23, 2007. Therefore, the petitioner and the beneficiary were required to have met in person between July 23, 2005 and July 23, 2007.

When he filed the petition, the petitioner responded "Yes" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two years immediately preceding the filing of the petition. The petitioner indicated that he and the beneficiary had met at a party given by mutual friends.

On January 7, 2008, the director issued a Notice of Action to the petitioner because he had not submitted all of the required documentation, including evidence of the termination of his prior marriage, G-325A, Biographic Information forms for himself and the beneficiary, and evidence that he and the beneficiary had personally met within the two years immediately preceding the filing of the petition or that he qualified for a waiver of that requirement. The petitioner responded to the Notice of Action with additional documents.

On August 12, 2008, the director denied the petition because the record contains no evidence that the petitioner and the beneficiary had personally met within the two years immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. The director also found that the petitioner did not submit G-325A, Biographic Information forms for himself and the beneficiary.

On appeal, the petitioner submits copies of his U.S. passport, reflecting a date stamp of July 28, 2008 from Haitian immigration authorities. The evidence presented by the petitioner, however, does not establish that the petitioner and the beneficiary had personally met within the required timeframe from July 23, 2005 to July 23, 2007. It is also noted that the petitioner does not submit the required G-325A, Biographic Information forms for himself and the beneficiary. Accordingly, the appeal is dismissed.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should ensure that he has documentary evidence discussed above. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home. 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. The petition is denied.