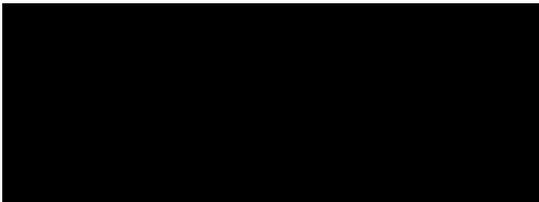


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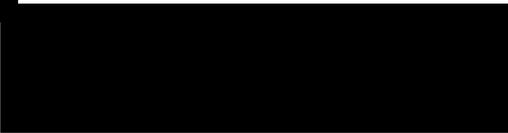


Office: CALIFORNIA SERVICE CENTER

Date: **AUG 16 2005**

IN RE:

Petitioner:  
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 APPLICANT:

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the United States. The beneficiary is a native and citizen of Romania. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior to the January 21, 2004 filing date of the visa petition.

On appeal, the applicant states that he has a severe fear of flying, which prevents him from traveling to meet his fiancée. The applicant submits several letters from friends and relatives attesting to his phobia. In addition, the record contains two letters from Dr. [REDACTED] dated August 2 and September 9, 2004 in which he states that the applicant is unable to travel by air due to his extreme fear of flying. Dr. [REDACTED] recommends that the applicant avoid air travel for this reason.

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), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed. 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 at § 214.2 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.

Although § 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 AAO acknowledges the applicant's desire to avoid air travel. However, the record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Romania, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country.

Under § 214(d) of the Act, the petitioner and the beneficiary were required to have met between July 25, 2001 and July 25, 2003. The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available. The burden of proof in these proceedings rests solely with the petitioner. *See* § 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.