



U.S. Citizenship
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Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: NOV 22 200

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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 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 Acting Director, Nebraska 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 Nigeria, 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 acting director denied the petition after determining that the petitioner had not established that he and the beneficiary had personally met within the two-year period immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. He also found no evidence to indicate that the petitioner should be exempted from the meeting requirement or that the petitioner was free to marry the beneficiary. *Decision of the Acting Director*, dated March 3, 2005.

Section 101(a)(15)(K) of 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 at section 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.

The director's denial indicates that the petitioner failed to respond to his October 15, 2004 request for evidence. On appeal, the petitioner describes his efforts, beginning on November 1, 2004, to have the request for evidence sent to his new address, including a January 21, 2005 letter he wrote to the director, which is included in the record. The AAO accepts the petitioner's explanation of his failure to respond in a timely manner to the request for evidence. As the director did not base his denial on the petitioner's abandonment of the instant petition, the AAO will consider whatever evidence the petitioner now submits on appeal in response to the director's October 15, 2004 request.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services on July 12, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 12, 2002 and ended on July 12, 2004.

At the time of filing, the petitioner indicated that he had previously met the beneficiary, but did not state whether that meeting had occurred during the time period just noted. On appeal, he indicates that his forthcoming marriage to the beneficiary has been arranged by his parents who follow the traditions and customs of the Igbo tribal culture. The petitioner indicates that these traditions and customs preclude any contact with the beneficiary. He states that he has seen the beneficiary only occasionally since they were betrothed as children, and is now allowed to be in contact with her only by telephone, letter and e-mail. The petitioner notes that when the beneficiary arrives in the United States, she will stay with his parents and he will not see her until the day of their wedding. He submits a DVD of a traditional Igbo marriage ceremony. Accordingly, the record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

The petitioner has indicated that contact with the beneficiary would violate the customs of his and the beneficiary's culture and social practice, one of the grounds at 8 C.F.R. § 214.2(k)(2) on which a petitioner may be exempted from the meeting requirement. However, the petitioner has submitted no independent evidence to support his statements regarding the restrictions that Igbo cultural practices impose on him with regard to personal contact with the beneficiary, e.g., published articles or affidavits obtained from scholars or other experts on Igbo culture. Going on record without supporting documentation is insufficient to meet the petitioner's burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Therefore, the record does not establish that the petitioner's culture precluded a meeting between the petitioner and beneficiary during the period July 12, 2002 to July 12, 2004. Accordingly, the appeal is dismissed.

The denial of the petition is without prejudice. Should the petitioner be able to provide independent evidence of the Igbo culture's prohibition against any personal contact between adults who are betrothed, he may file a new Form I-129F petition on the beneficiary's behalf so this information may be considered under the grounds at 8 C.F.R. § 214.2(k)(2).

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.