



U.S. Citizenship
and Immigration
Services

D6



FILE: [REDACTED]
EAC 05 018 50272

Office: VERMONT SERVICE CENTER

OCT 24 2005
Date:

IN RE: Petitioner: [REDACTED]
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

PUBLIC COPY

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, 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 Ethiopia, 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 not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated February 16, 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 petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services on October 23, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 23, 2002 and ended on October 23, 2004.

In response to the director's request for evidence and additional information, the petitioner failed to submit evidence of compliance with the meeting requirement.

On appeal, the petitioner states that he met the beneficiary in early June 2004 and that he is a United States sailor currently assigned to the U.S.S. Bataan and unable to leave a 250-mile radius. *Form I-290B*, dated February 28, 2005. In support of these assertions, the petitioner submits copies of two pages of a United States passport issued to the petitioner, including the biographic identification page and a copy of two pages of a Bupers Order.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between October 23, 2002 and October 23, 2004. The evidence of record does not establish that the petitioner and the beneficiary met as required. The AAO notes that the submitted passport pages include a tourist visa for Ethiopia issued in May 2002 and valid for a 24-month period and entry and exit stamps for [REDACTED] for June and July 2002. The pages also include entry and exit stamps for Frankfurt, Germany for dates in July 2002, dates occurring prior to the required two-year period. The AAO finds that this documentation does not evidence travel to Ethiopia during June 2004 as contended by the petitioner.

Although section 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 record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Ethiopia, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country. The petitioner states that he is unable to travel due to his employment and articulates why his employment prevents him from traveling, but fails to provide information relating to the duration of the order under which his travel is restricted. As noted, CIS looks to whether the petitioner can demonstrate the existence of circumstances that are likely to last for a considerable or indeterminable duration when considering a claim of extreme hardship. Moreover, the time commitment required for travel to a foreign country is a requirement common to those filing the Form I-129F petition and does not constitute extreme hardship to the petitioner.

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* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.