

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

86



FILE: [REDACTED]
EAC 07 026 52191

Office: VERMONT SERVICE CENTER

Date: DEC 28 2007

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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Ghana, 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 failed to establish that he had met the beneficiary within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, or that such a meeting would have resulted in extreme hardship or would have violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated April 9, 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 November 6, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 6, 2004 and ended on November 6, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary met in June 2002. *Form I-129F*, dated, October 31, 2006.

On December 5, 2006, the Director requested additional documentation showing that the petitioner and beneficiary had met during the two-year period prior to the filing of the Form I-129F. In response to the director's request for documentation, the petitioner submitted a letter. In this letter, the petitioner states that he met the beneficiary in 2002 and that he currently sends her money. *Petitioner's Letter*, dated February 7, 2007. The petitioner submits receipts showing that he sends money to the beneficiary. The petitioner also states that it will be less expensive for him to have the beneficiary in the United States. *Id.*

On appeal, the petitioner submits another letter and documentation showing that his father traveled to Ghana to perform the arrangements for his marriage in August 2004. In his letter, the petitioner states that he was not able to travel to Ghana during the two-year period prior to filing the Form I-129F because he was working for an agency in an entry-level position and then, in August 2006, he obtained permanent employment and could not take a vacation. *Petitioner's Letter*, dated April 23, 2007. He also states that his father performed all the necessary customary rights for marriage in his place. *Id.* The petitioner indicates that it was necessary for his father to perform these duties in order to prevent the petitioner from meeting the beneficiary in person, "in order [to] uphold our traditional value of abstinence from sex before marriage."

The AAO notes the petitioner's claim that his employment responsibilities prevented him from meeting the beneficiary during the specified period but does not find them to exempt him from compliance with the meeting requirement of section 214(d) of the Act. The challenge of coordinating overseas travel with personal obligations, such as employment, is faced by many individuals who wish to file Form I-129Fs. Accordingly, the petitioner's employment responsibilities 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 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 Ghana, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country.

The petitioner's claim, on appeal, that traditional values prevented him from meeting the beneficiary in person and required his father to perform certain pre-wedding obligations on his behalf is not supported by the record. The record provides no evidence regarding the unspecified traditional values to which the petitioner refers or that they precluded a meeting between the petitioner and beneficiary during the specified period. Going on record without supporting documentation is not sufficient to meet the petitioner's burden of proof in this proceeding. *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 petitioner has also failed to establish that a meeting with the beneficiary would have violated the customs of her culture or social practice.

Accordingly, the appeal will be dismissed.

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