

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

86

PUBLIC COPY



FILE: [Redacted]
WAC 06 214 53623

Office: CALIFORNIA SERVICE CENTER

Date: MAY 03 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cuba, as the fiancé 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).

On August 9, 2006 Citizenship and Immigration Services (CIS) requested from the petitioner evidence of meeting the beneficiary in person within the two-year period immediately preceding the filing of the petition and a completed Form G-325A for the beneficiary. On August 28, 2006 the petitioner submitted a response to the request for evidence without including the Form G-325A as requested. The Director denied the petition after determining that the petitioner had not submitted evidence to establish the fiancé relationship within the meaning of section 101(a)(15)(K) of the Act. *Decision of the Director*, dated November 20, 2006.

Section 6.B. of the filing instructions for the Form I-129F requires the petitioner to submit a completed and signed Form G-325A for herself and the beneficiary.

Section 8 C.F.R. § 103.2(a) states:

(1) General. Every application, petition or other document submitted on a form prescribed by this chapter shall be executed and filed in accordance with the instructions contained on the form, each instruction being hereby incorporated into the particular section of the regulations requiring its submission...

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 June 27, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 27, 2004 and ended on June 27, 2006.

The record includes photographs of the petitioner and beneficiary together; a boarding pass in the petitioner's name from Miami to Havana dated February 13; an airport tax receipt dated 2006, receipts from the Jose Marti airport in Havana dated February 13, 2006; and travel itineraries for the petitioner showing travel to Havana on February 13, 2006. The AAO finds that the petitioner has established compliance with the meeting requirement of section 214(d) of the Act. The petition, however, may not be approved.

Although the record includes a Form G-325A, Biographic Information sheet, on behalf of the petitioner, it does not include a Form G-325A, Biographic Information sheet, on behalf of the beneficiary. As the petitioner has not complied with the instructions of the Form I-129F, the appeal will be dismissed.

The denial of the petition is without prejudice. The petitioner may file a new I-129F petition on the beneficiary's behalf.

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.