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U.S. Citizenship
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FILE: [REDACTED]
EAC 08 011 54292

Office: VERMONT SERVICE CENTER

Date APR 29 2008

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, Vermont 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 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated October 24, 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 September 18, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 18, 2005 and ended on September 18, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had met in Cuba during the years 1996 to 2001 when he traveled there for a sailboat regatta. *Letter from Petitioner*, dated July 23, 2007. He stated that he was unable to visit the beneficiary in Cuba during the two years prior to filing the Form I-129F because of U.S. travel restrictions. He stated further that he had recently learned that the beneficiary had relocated to Uruguay. *Id.*

The Director stated that the record did not establish the petitioner's compliance with the meeting requirement or that the petitioner and beneficiary had explored the options of meeting in a third country or meeting in Uruguay, where the beneficiary had relocated, in June 2007. *Decision of the Director*, dated October 24, 2007

On appeal, the petitioner states that he could not travel to Cuba to meet the beneficiary prior to June 2007 because he did not want to violate U.S. law. *Letter from Petitioner*, dated October 30, 2007. He also states that the beneficiary was denied a visa to visit Mexico and did not move to Uruguay until the end of June 2007. The petitioner asserts that he did not have the means or time to travel to Uruguay to visit the beneficiary during this time period. *Id.* The AAO notes that the petitioner later submitted documentation of a visit to Uruguay to meet the beneficiary. He states that he and the beneficiary vacationed in La Paloma, Uruguay from November 19, 2007 to November 24, 2007. *Letter from Petitioner*, dated November 26, 2007. In support of this visit, the petitioner submits photographs of himself and the beneficiary, copies of pages from his passport showing entry and exit stamps for Uruguay and copies of his custom forms.

The petitioner's November 2007 trip to meet the beneficiary occurred one month after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above and does not satisfy section 214(d) of the Act. Furthermore, although the petitioner claims that he and the beneficiary attempted to meet in a third country, the record does not include documentation to support this assertion. The record also fails to document that the petitioner was unable to visit her in Uruguay when she relocated from Cuba. Going on record without supporting documentary evidence is not sufficient for purposes of meeting

the 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)). Accordingly, the AAO does not find that the petitioner has established that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him. Therefore, the appeal will be dismissed.

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