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U.S. Citizenship
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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 29 2008
WAC 07 119 51107

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 naturalized citizen of the United States who seeks to classify the beneficiary, a native of Haiti and a citizen of Venezuela, 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).

The director denied the petition after determining that the petitioner failed to establish that he and the beneficiary met 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 constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated October 3, 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 March 14, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 14, 2005 and ended on March 14, 2007.

At the time of filing, the petitioner indicated that she and the beneficiary had met within the two year time period preceding the filing of the Form I-129F. *Form I-129F*, dated March 9, 2007.

On June 25, 2007, the Director requested that the petitioner submit: passport-style photographs of herself and the beneficiary; Form G-325A, Biographic Information forms from the petitioner and beneficiary; and evidence that the petitioner and beneficiary had met. In response to the director's request for documentation, the petitioner submitted a photograph and Form G-325A for herself; copies of an airline ticket receipt for a flight from Miami to Venezuela, scheduled to depart on September 1, 2007; a boarding pass for this flight; a receipt from the Miami International Airport; a DHL receipt; and a statement from the petitioner. In the petitioner's statement she states that her flight to Venezuela was canceled because of problems with the airline. *Petitioner's Statement*, dated September 2, 2007. She states that now her vacation is over and her daughter is back in school, so she is unable to travel. She states that she is bored and stressed and would like her boyfriend to be in the United States to marry her. *Id.*

On appeal, the petitioner submits evidence of traveling to Venezuela to meet the beneficiary in October 2007. The petitioner submits boarding passes from American Airlines showing that she traveled from Miami, Florida to Caracas, Venezuela on October 20, 2007 and traveled back to Miami, Florida on October 21, 2007. The petitioner also submits copies of pages from her U.S. passport, showing an entry stamp into Venezuela on October 20, 2007 and an exit stamp for October 21, 2007. Included with this evidence are photographs of the petitioner and beneficiary together.

The petitioner's October 2007 trip to meet the beneficiary occurred seven months after she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has established that she 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. Further, the petitioner has offered no evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her or that such a meeting would have violated the customs of the beneficiary's culture or social practice. The applicant's claim that she was unable to travel to meet the beneficiary once her daughter was in school is not a basis for a finding of extreme hardship. Balancing family obligations with travel is a challenge commonly faced by individuals who wish to file Form I-129Fs and, therefore, such obligations do not constitute extreme hardship. Therefore, the appeal will be dismissed.

The AAO also notes that the petitioner has failed to submit either the passport-style photograph or the Form G-325A for the beneficiary as requested by the director and required by the instructions accompanying the Form I-129F. Accordingly, the petitioner has not complied with the requirements for filing the Form I-129F.

8 C.F.R. § 103.2(a) states in pertinent part:

- (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...

Thus, the appeal is also denied as a result of the petitioner not submitting the documentation required to file the Form I-129F.

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