

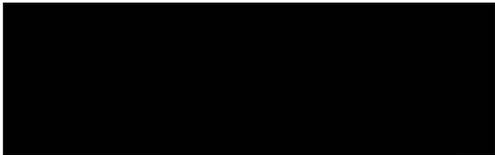
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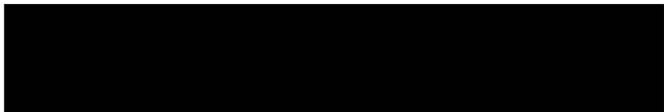
Office: VERMONT SERVICE CENTER

Date: JAN 11 2008

IN RE:

Petitioner:

Beneficiary:



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 the Dominican Republic, 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 had failed to establish that she 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. *Decision of the Director*, dated March 23, 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 December 26, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 26, 2004 and ended on December 26, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had met in January 1999 in the Dominican Republic. *Form I-129*, dated December 11, 2006.

On January 11, 2007, the Director requested additional documentation showing that the petitioner and beneficiary had met during the two-year time period immediately preceding the filing of the Form I-129F. If such a meeting had not occurred, then the Director requested that the petitioner submit documentation that meeting the beneficiary during the two-year time period prior to filing would have resulted in extreme hardship or would have violated the customs of the beneficiary's culture or social practice. In response to the director's request for documentation, the petitioner submitted a copy of her expired Dominican passport with no evidence of visits to the Dominican Republic during the specified time period, undated photographs of herself with the beneficiary and statements from herself, the beneficiary and the priest from her church in the Dominican Republic. None of the evidence submitted shows that the petitioner and beneficiary met during the two-year time period required by section 214(d) of the Act.

On appeal, the petitioner states that she is submitting new evidence to establish her relationship with the beneficiary. *Form I-290B*, dated April 16, 2007. The petitioner submits a statement from [REDACTED], which states that from 2000 to the present, the petitioner and beneficiary occasionally resided in Vega city, Dominican Republic living life as a Catholic couple. *Statement from Father [REDACTED]* dated April 9, 2007. The petitioner also submits a group statement from neighbors and friends in the Dominican Republic, which states that they know the petitioner and beneficiary to have been in a relationship since 1999. *Group Statement*, dated April 11, 2007. The AAO notes that the validity of the petitioner and beneficiary's relationship is not at issue. For the beneficiary to qualify for the benefit sought, he and the petitioner must have met in person during the two-year time period immediately preceding the filing of the petition. In this case, the petitioner and the beneficiary were required to have met during the period that began on December 26, 2004 and ended on December 26, 2006.

The current record establishes that the petitioner traveled to the Dominican Republic as recently as 2000, but not during the specified time period. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. If the petitioner and beneficiary meet again, 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.