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U.S. Citizenship
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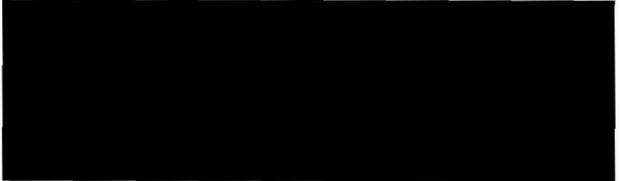


FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: **JUL 25 2008**
EAC 07 166 51343

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:



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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Sierra Leone, 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 and the beneficiary had personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated December 13, 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 May 8, 2007. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on May 8, 2005 and ended on May 8, 2007.

At the time of filing, the petitioner indicated that he had not met the beneficiary during the specified period, but stated that he had known her for 27 years and that she is the mother of his son. To establish his relationship to the beneficiary, the petitioner submitted Western Union money transfers that indicate he provides her with financial support. In response to the director's request for evidence, the petitioner submitted a letter in which he stated that he and the beneficiary were engaged to be married at the time war broke out and that he left [REDACTED] in October 2000. The petitioner also provided copies of pages from his U.S. passport; a statement from his son, [REDACTED] declaring the beneficiary to be his mother; copies of pages from the beneficiary's [REDACTED] passport and Western Union money transfers sent to the beneficiary. Accordingly, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d).

On appeal, counsel for the petitioner contends that he was not able to meet the beneficiary during the specified period because he entered the United States as a refugee and could not return to Sierra Leone without jeopardizing his status in the United States. While the AAO acknowledges that the petitioner was admitted to the United States as a refugee and could not return to Sierra Leone, his country of persecution, his refugee status does not establish that a meeting with the beneficiary during the specified period would have constituted an extreme hardship for him. While section 214(d) of the Act requires a meeting between the petitioner and the beneficiary during the two-year period immediately preceding the filing of the Form I-129F, it does not require the petitioner to travel to the country where the beneficiary resides. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary considered or explored options for a meeting beyond the petitioner traveling to Sierra Leone, including the beneficiary traveling to meet the petitioner in the United States.

Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find the record to establish that compliance with the meeting requirement would have resulted in extreme hardship to him or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2). Accordingly, the appeal will be dismissed.

The denial of the petition is without prejudice. Once the petitioner and beneficiary meet again, the petitioner may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year period in which the parties are required to have met 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.