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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

D6

[REDACTED]

FILE: [REDACTED] WAC 07 108 52935

Office: CALIFORNIA SERVICE CENTER

Date: JUL 28 2008

IN RE: Petitioner:
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:

[REDACTED]

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 sustained.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, 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. The director also found that the record failed to establish a basis on which the petitioner could be exempted from the meeting requirement *Decision of the Director*, dated February 5, 2008.

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 at section 214.2 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 6, 2007. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on March 6, 2005 and ended on March 6, 2007.

At the time of filing, the petitioner indicated that he had met the beneficiary during the two-year period just noted, but failed to state the date on which the meeting had occurred. In response to the director's May 25, 2007 request for evidence, the petitioner submitted copies of pages from his U.S. passport showing a July 2, 2004 admission stamp for Great Britain and a July 9, 2004 admission stamp for the United States, and a boarding pass for a Vietnam Airlines flight out of Ho Chi Minh City that is stamped with the month and day of travel (December 31), but not the year. The petitioner also provided copies of his internet calling account showing calls to Vietnam and copies of money transfers to the beneficiary.

On appeal, the petitioner contends that he has complied with the meeting requirement of section 214(d) of the Act as he met the beneficiary in Vietnam during 2006. In support of his claim, the petitioner offers copies of a China Airlines boarding pass for a flight from Taipei to Ho Chi Minh City, dated December 17, a travel itinerary for travel to and from Vietnam, beginning December 15, 2006 in Los Angeles and arriving in Ho Chin Minh City, via Tapei, on December 17, 2006; a check paying for his ticket; and a receipt acknowledging this payment.

The AAO finds the documentation submitted by the petitioner on appeal, combined with the boarding pass he provided at the time of filing, to be sufficient to establish that he traveled to Vietnam in December 2006. Therefore, he has demonstrated his compliance with the meeting requirement of section 214(d) of the Act and the appeal will be sustained.

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 met that burden.

ORDER: The appeal is sustained.