

**PUBLIC COPY**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**

04

**APR 21 2009**



FILE:

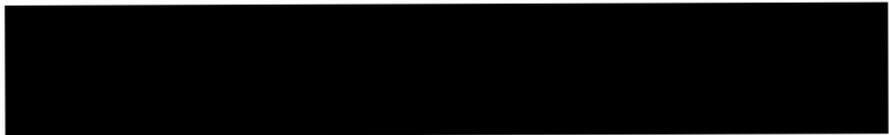
Office: VERMONT SERVICE CENTER

Date:

IN RE:

Petitioner:

Beneficiary:



PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 of the Administrative Appeals Office 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom  
Acting 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 Egypt, as the fiancé(e) of a United States citizen pursuant to § 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 because the petitioner had failed to establish that she and the beneficiary met in person within the two years immediately preceding the filing of the petition. On appeal, the petitioner provides the following: a statement; copies of ticketing/itinerary documents related to her 2009 trip to Egypt; copies of previously submitted documents related to the beneficiary's occupation of seaman; and photographs of the petitioner and the beneficiary.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall 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 U.S. Citizenship and Immigration Services (USCIS) on July 11, 2008. Therefore, the petitioner and the beneficiary were required to have met between July 11, 2006 and July 11, 2008.

When she filed the petition, the petitioner responded “no” to question #18 on the I-129F Petition that asks whether she and the beneficiary had met in person within the two years before the filing of the petition. The petitioner stated that she and the beneficiary are first cousins.

The director denied the petition because the petitioner did not submit evidence that she and the beneficiary had met in person during the required time period. On appeal, the petitioner states that she traveled to Egypt in January 2008 to meet the beneficiary, but due to terrible weather, his commercial company boat was stuck on the Black Sea, and thus she and the beneficiary were unable to see one another. The petitioner also states that she will travel back to Egypt in 2009 to visit the beneficiary for a couple of weeks. As supporting documentation, the petitioner submits: copies of ticketing/itinerary documents related to her 2009 trip to Egypt; copies of previously submitted documents related to the beneficiary’s occupation of seaman; and photographs of the petitioner and the beneficiary.

The petition is not approvable. The law clearly states that the petitioner and beneficiary must have met in person within the two years before the filing of the petition. The petitioner’s assertions and supporting documentation regarding her January 2008 trip to Egypt to meet the beneficiary, and the beneficiary’s commercial company boat being stuck on the Black Sea for the duration of her trip, lack detail and substance. The beneficiary has offered no evidence in support of her assertion. In addition, the beneficiary’s seaman’s passport reflects his “date of joining service” as May 12, 2007. As such, the petitioner has not established that she and the beneficiary could not have met in person after the July 11, 2006 requisite date and prior to his embarkment. In addition, while the photographs establish that the petitioner and the beneficiary have met, they contain no film processing dates or any other evidence to establish that the petitioner and beneficiary have met in person within the required time period. The AAO notes further that, while the petitioner asserts that she will visit the beneficiary in 2009, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). The petitioner’s reasons are not sufficient to waive the requirement of an in-person meeting with the beneficiary within the two years before the filing of the petition. Without more details to substantiate the petitioner’s claims that she was unable to meet the beneficiary during the requisite period because of the issues described above, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between her and the beneficiary within the two-year period before the filing of the petition. Accordingly, the appeal is dismissed. The petition must be denied.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, she should ensure that she has documentary evidence of having met the beneficiary in person within the two years before the filing of the petition. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that she should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at

[www.uscis.gov](http://www.uscis.gov), or she may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to her home.

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. The petition is denied.