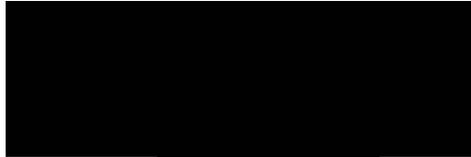




U.S. Citizenship  
and Immigration  
Services

D6



FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: **DEC 08 2009**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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)

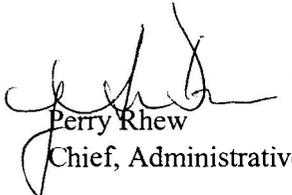
ON BEHALF OF PETITIONER:

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).

  
Perry Rhew  
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 U.S. citizen who seeks to classify the beneficiary, a native and citizen of Morocco, as the fiancé(e) of a U.S. 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 nonimmigrant visa petition because the record contains no evidence that the petitioner and the beneficiary had personally met within the two years immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner provides a statement.

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

Subject to subsection (d) and (p) of section 214, an alien who –

(i) 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 admission . . . .

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 August 29, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between August 29, 2006 and August 29, 2008.

When he filed the petition, the petitioner responded "Yes" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two years before the filing of the petition. The petitioner indicated that he and the beneficiary were introduced by mail, after which he traveled to Morocco, personally met the beneficiary and her family, and held an engagement ceremony. As supporting documentation, the petitioner submitted: passport-style color photographs for himself and the beneficiary; G-325A, Biographic Information forms for himself and the beneficiary; a copy of his Virginia driver's license; an unidentified foreign document bearing his photograph; and a copy of the biographic page from the beneficiary's passport.

On January 29, 2009, the director issued a Notice of Action to the petitioner because he had not submitted all of the required documentation, including evidence of his U.S. citizenship, and evidence that he and the beneficiary had personally met within the two years immediately preceding the filing of the petition, or that he qualified for a waiver of that requirement. The petitioner timely responded to the Notice of Action with additional documents. The petitioner also stated, in part, that he had just departed from Morocco on July 27, 2006, and that he had relocated from Ohio to Virginia.

On March 4, 2009, the director denied the petition because the petitioner failed to establish that he and the beneficiary had personally met within the two years immediately preceding the filing of the petition, as required under section 214(d) of the Act, or that he qualified for an exemption from this meeting requirement, pursuant to 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner states, in part, that neither he nor the beneficiary could afford to travel to any common location for an in-person meeting.

The AAO acknowledges the petitioner's statement on appeal that due to financial hardship, he and the beneficiary were unable to travel anywhere for an in-person meeting during the requisite time period, which in this case was between August 29, 2006 and August 29, 2008. In his February 6, 2009 statement, the petitioner indicated that he "just departed from Morocco on July 27, 2006," that he had re-established employment and a residence after relocating from Ohio to Virginia, and that he had traveled to Morocco in 2009 after obtaining stable employment. The evidence regarding the petitioner's financial situation and how it impacted on the petitioner's ability to travel within the required time period lacks detail and substance. Thus, the petitioner's explanation and evidence are not sufficient to waive the requirement of an in-person meeting with the beneficiary within the two years immediately preceding the filing of the petition. For these reasons, the petition must be denied.

In view of the foregoing, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between him and the beneficiary within the two years immediately preceding 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, he should ensure that he has documentary evidence of having met the beneficiary in person within the two years immediately preceding the filing of the petition, or sufficient evidence to establish that the requirement should be waived. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he 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 he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his 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.