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

*D6*

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date: **JAN 09 2009**

IN RE:

Petitioner:  
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).

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 Cuba, 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 failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition.

On appeal, the petitioner states that he was unable to meet the beneficiary within the required time period because he fell ill, developed health problems, and eventually went on disability. The petitioner submits a copy of a January 15, 2007 Supplemental Security Income (SSI) letter from the Social Security Administration.

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 March 4, 2008. Therefore, the petitioner and beneficiary were required to have met in

person between March 4, 2006 and March 4, 2008. In this instance, the petitioner claims to have last met the beneficiary in person in August 2002 when he traveled to Cuba to see his ill mother.

In a March 24, 2008 Request for Evidence (RFE), the director requested evidence that meeting the beneficiary would be a hardship or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. In the petitioner's response, he did not request an exemption from the requirement of an in-person meeting. The petitioner provided a statement regarding how he met the beneficiary as well as letters between the couple to evidence their intent to share a life together. In denying the petition, the director discussed the evidence and concluded that the petition could not be approved because the petitioner and beneficiary had not met in person within the two-year period before the filing of the petition.

On appeal, the petitioner states that his disability prevented him from visiting the beneficiary during the required period, and he submits evidence that he receives monthly payments from the Social Security Administration due to a disability.<sup>1</sup> Although the director requested evidence that an in-person meeting between the petitioner and beneficiary would be a hardship to the petitioner, the petitioner did not provide any evidence on this issue in response.

Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would have resulted in hardship to the petitioner. The petitioner's failure to describe his disability and provide any documentary evidence of its impact on his ability to travel does not warrant a finding that an in-person meeting with the beneficiary during the required period was not possible. On appeal, the petitioner states "Actually I'm in better condition and could travel now," which indicates that the disability to which he alluded was not one that was temporary.

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 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 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.

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<sup>1</sup> The petitioner does not state his disability.