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U.S. Citizenship
and Immigration
Services



DG-

FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date: **MAR 16 2009**

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:



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 Haiti, 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: (1) establish that she and the beneficiary met in person within the two years immediately preceding the filing of the petition; and (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for her.

On appeal, counsel states that traveling to Haiti to meet with the beneficiary would put the petitioner's life in danger and cause her extreme hardship. As supporting documentation, counsel submits a statement from the petitioner, various publications concerning the country conditions of Haiti, and copies of phone bills and money transfer receipts.

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 23, 2007. Therefore, the petitioner and the beneficiary were required to have met between July 23, 2005 and July 23, 2007.

In denying the petition, the director found that the petitioner had not demonstrated that she and the beneficiary met in person within the two years immediately preceding the filing of the petition or that meeting the beneficiary in person would have been a hardship for her.

On appeal, counsel states that that traveling to Haiti to meet with the beneficiary would put the petitioner's life in danger and cause her extreme hardship. The petitioner claims in her March 11, 2008 statement that she and the beneficiary have been engaged since 2001.

The AAO acknowledges the petitioner's fear of travel to Haiti. Section 214(d) of the Act, however, does not require the petitioner to meet her fiancé in Haiti. As such, the record must demonstrate that the petitioner and beneficiary explored meeting in a country other than Haiti, including the United States. The petitioner, however, has submitted no evidence that the beneficiary applied for a visa to visit another country. Accordingly, the AAO does not find that the petitioner has established that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her. As she has also failed to submit proof that such a meeting would have violated the customs of the beneficiary's culture or social practice, she is not eligible for an exemption from the meeting requirement under 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice to the filing of a new I-129F Petition on the beneficiary's behalf. 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, 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.