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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
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date **JUL 13 2010**

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

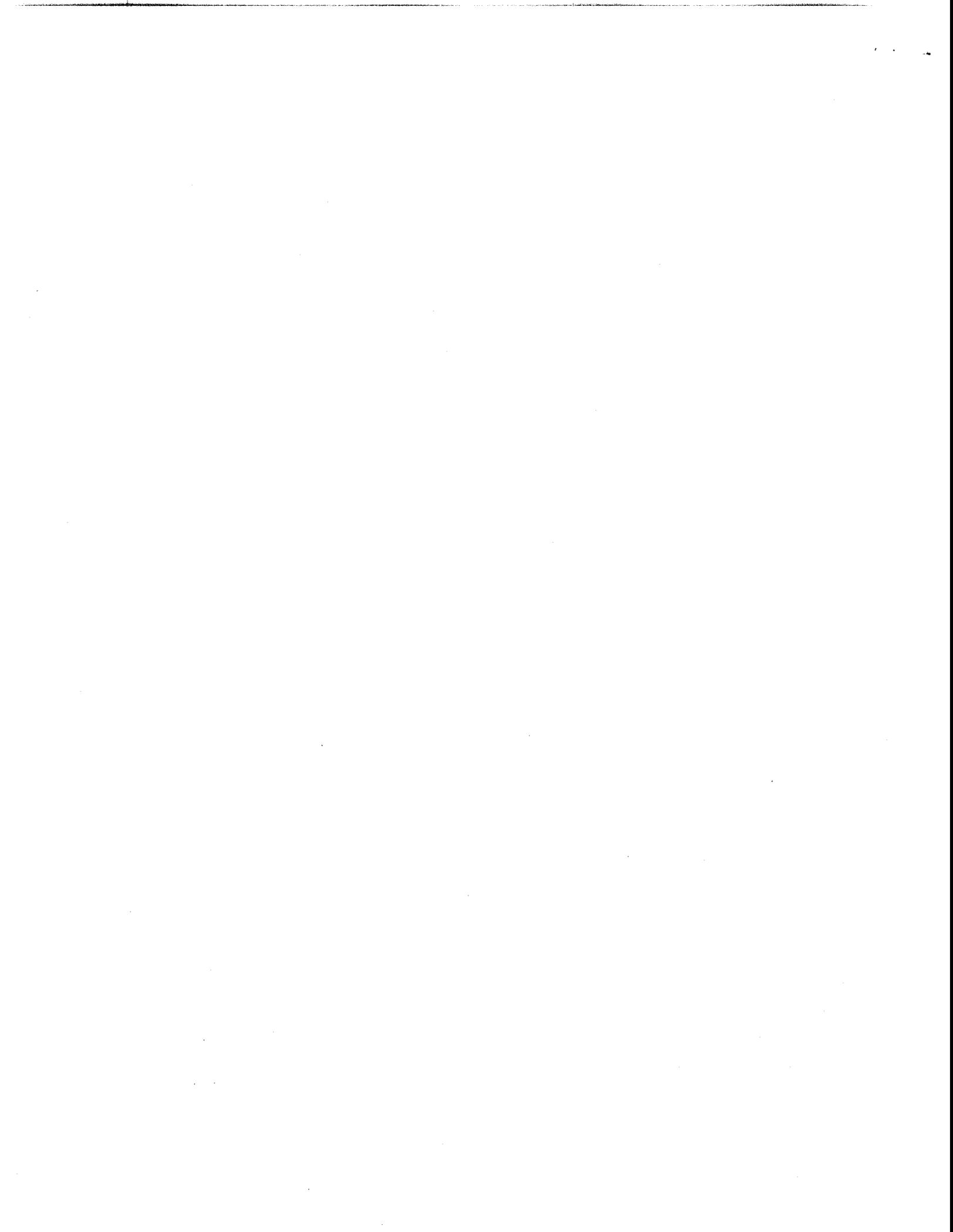
INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office



DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. 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 nonimmigrant visa petition because the record contains no evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner states, in part, that he and the beneficiary have not met in person because the Cuban government will not allow him to visit because he and his family "joined and [led] The Alliance of Independent Farmers of Cuba."

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

Subject to subsections (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 2 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 17, 2009. Therefore, the petitioner and the beneficiary were required to have met in person between March 17, 2007 and March 17, 2009.

When he filed the petition, the petitioner responded "No" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition. The petitioner stated, in part, that the beneficiary was his first girlfriend when he lived in Cuba, before he got married, and he and the beneficiary re-established their relationship after his divorce.

On August 10, 2009, the director issued a Request for Evidence (RFE), requesting that the petitioner submit evidence that he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition or, in the alternative, evidence to establish why the requirement of an in-person meeting should be waived.

In his October 29, 2009 response to the director's RFE, the petitioner stated, in part, that his father was the president of the "Independent farmers cooperative" in Cuba, and that while his father was in the Cuban airport awaiting deportation back to the United States, "they told him to tell [the petitioner] to never go back to Cuba or [he will] get in trouble."

The director denied the nonimmigrant visa petition because the record contains no evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement.

On appeal, the petitioner states, in part, that he and the beneficiary have not met in person because the Cuban government will not allow him to visit because he and his family "joined and [led] The Alliance of Independent Farmers of Cuba."

The petition is not approvable. The AAO recognizes that during the two-year period immediately preceding the filing of the petition, travel regulations established by the U.S. government prohibited individuals from visiting family members in Cuba more than once every three years (31 C.F.R. § 515.561).¹ The AAO also acknowledges the petitioner's assertion that the Cuban government will not allow him to visit because of his and his family's membership and leadership in the Alliance of Independent Farmers of Cuba. The petitioner, however, has not submitted any evidence in support of his assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158,

¹ On April 13, 2009, President Obama lifted restrictions on the ability of individuals to visit relatives in Cuba, as well as to send them remittances.



165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner has not demonstrated that he was prohibited from traveling to Cuba within the two-year period immediately preceding the filing of the petition, that is, between March 17, 2007 and March 17, 2009. Accordingly, the evidence of record indicates that the petitioner could have returned to Cuba within the specified two-year time period while complying with U.S. travel regulations. The AAO does not find that the petitioner has offered evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him or that such a meeting would have violated the customs of the beneficiary's culture or social practice. Accordingly, it is concluded that the petition may not be approved, and the appeal is dismissed.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he 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, 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.

