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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
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

OCT 06 2010

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:

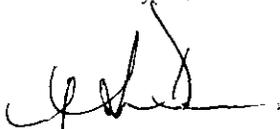
SELF-REPRESENTED

INSTRUCTIONS:

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. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. 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, California 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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Russia, 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 submits a letter, and additional documentation, including: a letter from [REDACTED]; a partial copy of the petitioner's 2009 federal income tax return; a letter from the management office of the petitioner's apartment complex; a letter from the caseworker at the Illinois Department of Human Services; copies of the beneficiary's plane ticket dated 2004; and a document from the Community Action Partnership of Lake County.

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 February 8, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between February 8, 2008 and February 8, 2010.

When she filed the petition, the petitioner responded "Yes" to question #18 on the I-129F Petition that asks whether she 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 she met the beneficiary in the United States in 2001, and that she had not seen him since he "left the United States five years ago." It is noted here that on July 29, 2004, an immigration judge in Chicago, Illinois, granted the beneficiary's application for voluntary departure from the United States, pursuant to section 240B of the Act, until November 26, 2004, and the beneficiary self-deported on November 23, 2004.

On April 23, 2010, the director issued a request for evidence (RFE), requesting that the petitioner submit evidence that she and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that she qualified for a waiver of that requirement.

In her response to the director's RFE, the petitioner submitted a statement, dated May 14, 2010, in which she stated, in part, that she was unable to travel by airplane because she experienced a panic attack on the airplane when she came to the United States in 2001. The petitioner also stated that the beneficiary is the father of her seven-year-old daughter. As supporting documentation, the petitioner submitted the following: a letter from her daughter's teacher; a letter from her doctor; her daughter's birth certificate; and a partial copy of her Russian passport.

The director denied the petition because the petitioner failed to establish that she and the beneficiary had met, as required under section 214(d) of the Act, or that she 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 she was unable to personally meet the beneficiary within the two-year period immediately preceding the filing of the petition because she has a fear of flying and she cannot afford to travel anywhere other than in the city of Chicago. While the AAO acknowledges the petitioner's statements that she is afraid to travel by air and that she cannot afford to travel outside of Chicago, there is no requirement that the petitioner travel by air. Moreover, the financial commitment required for travel to a foreign country is a common requirement to those filing the Form I-129F petition and does not constitute extreme hardship. Thus, the petitioner has not shown that she was unable to comply with the meeting requirement. In addition, section 214(d) of the Act does not require that the petitioner travel to the beneficiary's home country for the requisite meeting. The record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Russia, including, but not limited to, the beneficiary and the petitioner both traveling to a third country. The evidence of record does not establish that the petitioner and the

beneficiary met as required. 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 result in extreme hardship to the petitioner. 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, 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.