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U.S. Citizenship  
and Immigration  
Services

M1

NOV 30 2005

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

WAC 05 012 51276

IN RE:

Petitioner:

Beneficiary:

[REDACTED]

PETITION: Petition for Alien Fiancé(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

[REDACTED]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). 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 Mexico, as the fiancé of a United States citizen pursuant to section 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 after determining that the petitioner had not offered documentation evidencing that she and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated March 24, 2005.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and, seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states, in pertinent part, that a fiancé(e) petition:

. . . shall 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 at section 214.2 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 Citizenship and Immigration Services on October 8, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 8, 2002 and ended on October 8, 2004.

In response to the director's request for evidence and additional information, the petitioner submitted a letter from the Diocese of Las Cruces, New Mexico; statements from the petitioner and the beneficiary; copies of bus tickets for travel between Dallas and El Paso during 2004; copies of telephone bills; copies of letters written by the beneficiary to the petitioner with translations and a copy of a photograph of the petitioner and the beneficiary.

On appeal, the petitioner's representative states that the petitioner and the beneficiary drive to meet one another in Ciudad Juarez, Chihuahua, Mexico. The petitioner's representative indicates that while there, the petitioner and the beneficiary stay with the beneficiary's aunt in her private home in order to save money. The petitioner's representative asserts that this situation is the reason that the petitioner and the beneficiary are lacking evidence of their meetings. *Letter from Elizabeth Frias*, dated April 18, 2005. In support of these assertions, the petitioner's representative submits an affidavit of the petitioner; an affidavit of the petitioner's mother and an affidavit of the petitioner's sister.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between October 8, 2002 and October 8, 2004. The evidence of record does not establish that the petitioner and the beneficiary met as required. The AAO acknowledges the submission of affidavits of the petitioner's mother and sister indicating that the petitioner and the beneficiary meet in [REDACTED] as contended by the petitioner's representative. *Affidavit of Paula Rodriguez*, dated April 20, 2005 and *Affidavit of Elvia Gonzalez*, undated. The AAO notes, however, that the affidavits of the petitioner's mother and sister as well as the affidavit of the petitioner herself fail to cite specific dates during the required two-year period on which the petitioner and the beneficiary met. Therefore, the record is inconclusive regarding whether or not the petitioner and the beneficiary met as required. Generalized statements regarding the length and nature of the relationship between the petitioner and the beneficiary are not sufficient evidence to establish the exemption or waiver grounds under 8 C.F.R. 214.2(k)(2) to warrant the favorable exercise of the director's discretion to exempt the meeting requirement.

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 or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.