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U.S. Citizenship
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Services

Db



FILE: [REDACTED]
EAC 04 180 53391

Office: VERMONT SERVICE CENTER

Date: AUG 31 2005

IN RE: Petitioner: [REDACTED]
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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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 Acting Director, Vermont 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 Ghana, 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 acting director denied the petition after determining that the petitioner had failed to establish that she and the beneficiary had personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. The acting director also concluded that the petitioner had not proven that compliance with the meeting requirement would have constituted an extreme hardship for her or would have violated the customs of the beneficiary's culture or social practice. *Decision of the Acting Director*, dated July 15, 2004.

Section 101(a)(15)(K) of the Immigration and Nationality Act (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 (CIS) on June 1, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on June 1, 2002 and ended on June 1, 2004.

At the time of filing, the petitioner indicated that she had previously met the beneficiary in Ghana in February 2001, but had not seen him since. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

The petitioner initially stated that her employment and childcare obligations prevented her from returning to Ghana during the two-year period that preceded her filing of the Form I-129F. However, on appeal, the petitioner indicates her religious beliefs played a role in keeping her from traveling to meet the beneficiary in Ghana or elsewhere. She states that she holds a traditional religious perspective with regard to physical intimacy prior to marriage. Because her 2001 meeting with the beneficiary resulted in physical intimacy, she asserts she has avoided direct contact with the beneficiary since that time as such contact would result in further physical intimacy, an outcome that her religious beliefs require her to avoid.

While the AAO takes notes of the reasons the petitioner has identified as precluding a meeting with the beneficiary during the specified two-year time period, it does not find these reasons, either individually or in combination, to provide a basis for exempting the petitioner from the meeting requirement of section 214(d) of the Act. As noted in the director's denial, the petitioner's childcare and employment responsibilities are not unique. These concerns are similar to those faced by many individuals who wish to file Form I-129Fs and, as a result, do not constitute extreme hardship. The same is true with regard to the petitioner's wish to abide by her religious beliefs and avoid further physical intimacy with the beneficiary prior to marriage. As noted above, extreme hardship is characterized by circumstances not within the power of the petitioner to control or change. The petitioner's relationship with the beneficiary is, however, not beyond her control. Therefore, her concerns regarding the nature of that relationship do not establish that a meeting with the beneficiary during the specified time period would have constituted extreme hardship.

Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to him or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. If the petitioner and beneficiary meet, she may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year period in which the parties are required to have met will apply.



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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.