U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: JUN 29 2006

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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: 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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting Director, Nebraska 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 Russia, as the fiancée 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. He further determined that the record failed to establish a basis on which the petitioner might be exempted from that requirement. *Decision of the Acting Director,* dated October 6, 2005.

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 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 June 20, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 20, 2003 and ended on June 20, 2005.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met, stating that her academic studies and his childcare responsibilities had precluded their travel. However, the challenges of coordinating overseas travel with family obligations and educational requirements are faced by many individuals who wish to file Form I-129Fs. Accordingly, the petitioner's and beneficiary's respective obligations do not establish a basis for finding that compliance with the meeting requirement would have constituted an extreme hardship for the petitioner. Taking into account the totality of the circumstances, as presented by the petitioner, the AAO also finds no reason to conclude that a meeting with the petitioner would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the other basis on which a petitioner may be exempted from the meeting requirement of section 214(d) of the Act. *See* 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner submits evidence of a meeting with the beneficiary in October 2005 in Paris. His statements indicate that he believes he has now overcome the basis for the director's October 6, 2005 denial of the petition. However, the petitioner's October 2005 meeting with the beneficiary does not satisfy the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d), as it relates to the Form I-129F filed by the petitioner on June 20, 2005.

The petitioner's October 2005 trip to Paris occurred after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has submitted evidence to establish that he has met the beneficiary, this meeting did not take place within the two-year time period specified above – June 20, 2003 to June 20, 2005 – and does not satisfy section 214(d) of the Act. Accordingly, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new I-129F petition on her behalf so that a new two-year meeting period will apply. To demonstrate his October 2005 meeting with the beneficiary, the petitioner must provide dated evidence, such as the October 3 and October 22, 2005 airline boarding passes he has submitted on appeal. This documentation must establish that both he and the beneficiary were in Paris in October 2005, e.g., copies of pages from the petitioner's and beneficiary's passports showing their admission to France or dated receipts for hotel stays or purchases showing the name(s) of the individual to whom the receipts were issued. Photographs, unless they are film-dated, i.e., have the date the photograph was made embedded in the picture, are not evidence that a meeting has occurred during a specified time period.

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.