

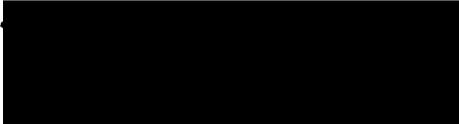
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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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DG

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 05 2005**
WAC 03 201 50865

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 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 Ethiopia, 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 record failed to establish that the petitioner 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 25, 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 on July 7, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 7, 2001 and on July 7, 2003.

At the time of filing, the petitioner indicated that she had previously met the beneficiary in Ethiopia during the period December 31, 2000 to April 1, 2001. In response to the director's request for evidence that a meeting had occurred during the two-year period immediately preceding her filing of the Form I-129F, the petitioner submitted copies of pages from her U.S. passport showing a November 24, 2003 U.S. admission stamp, a copy of an Ethiopian visa issued on September 19, 2003, an airline baggage claim dated November 24, 2003, several undated photographs, and airline ticket receipts documenting the petitioner's travel to Ethiopia from September 15, 2003 to November 23, 2003.

On appeal, the petitioner expresses her concern that CIS has ignored the evidence of her March 2001 trip to Ethiopia, which occurred prior to her filing of the instant petition, and based its decision on the documentation of her September 15, 2003 trip to visit the beneficiary, which occurred after the date of filing.

The petitioner has stated that she has twice met the beneficiary, during a December 31, 2000 to April 2, 2001 visit to Ethiopia and subsequently when she visited her country of birth from September 15, 2003 to November 23, 2003. However, neither of these visits occurred within the timeframe required by section 214(d) of the Act. As noted above, the meeting requirement of section 214(d) stipulates that the petitioner and beneficiary must have personally met during the two-year period immediately preceding the filing of a Form I-129F. In the instant case, the petitioner's filing of her petition on July 7, 2003 required her to have met the beneficiary during the period July 7, 2001 to July 7, 2003. As both the petitioner's trips to Ethiopia fall outside the specific meeting period, neither can satisfy the meeting requirement of section 214(d) of the Act. .

The AAO finds that the record on appeal does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act. Accordingly, 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 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.

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.