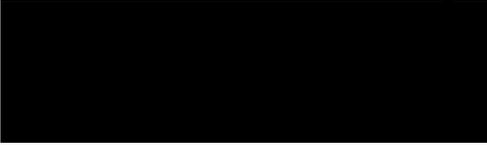


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prevent clearly unwarranted  
invasion of personal privacy**



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FILE:



EAC 04 188 52334

Office: VERMONT SERVICE CENTER

Date: **NOV 28 2005**

IN RE:

Petitioner:

Beneficiary:



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, 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 Cuba, 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 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. He also found that the petitioner had failed to comply with the filing instructions for the Form I-129F. *Decision of the Director*, dated February 16, 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 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 June 25, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on June 25, 2002 and ended on June 25, 2004.

At the time of filing, the petitioner indicated that she had previously met the beneficiary but did not state whether that meeting had occurred during the two-year meeting period just indicated. On July 28, 2004, the director issued a request for evidence asking the petitioner to submit documentation that a meeting had occurred within the specified time period. In response, the petitioner asked for additional time to submit the requested evidence and was given until December 4, 2004 to do so. However, no response was received by that date and the director denied the instant petition on February 16, 2005.

At the time of filing, the petitioner also failed to submit photographs of herself and the beneficiary and a Form G-325A for the beneficiary, in accordance with the instructions on the Form I-129F. Therefore, the director's request for evidence also asked the petitioner to provide this missing documentation, extending the deadline for the submission of this evidence to December 4, 2004 as well. The petitioner's failure to submit the photographs and a Form G-325A for the beneficiary, as well as evidence of her compliance with the meeting requirement of section 214(d) of the Act, was noted in the director's February 16, 2005 denial.

In her March 7, 2005 appeal, the petitioner offers no additional evidence that might provide a basis for approving the instant petition. She states only that, as a result of the mail delays in Cuba, she needs more time for her fiancé "to sign the I-290B." While the AAO notes that the petitioner, on June 9, 2005, submitted the photographs and G-325A requested by the director, she did not provide evidence to establish that she and the beneficiary met during the two-year period immediately preceding her filing of the Form I-129F. Accordingly, the record does not establish the petitioner's compliance with the meeting requirement of section 214(d) of the Act and the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Should the petitioner and beneficiary meet, she 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.