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

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FILE:

EAC 07 228 52097

Office: VERMONT SERVICE CENTER

Date:

DEC 01 2008

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
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 Iran, 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 director denied the petition after determining that the petitioner failed to establish that he and the beneficiary met within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated March 28, 2008.

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 July 30, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 30, 2005 and ended on July 30, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had planned to meet in Turkey or Dubai but that the beneficiary's parents are very prejudiced and would not agree to a meeting until some type of arrangement or dedication was established. *Form I-129*, dated July 24, 2007.

On December 6, 2007, the Director requested the following documentation: certified copies of all court and police records for the petitioner's criminal convictions; proof of the legal termination of the beneficiary's marriage and documentation showing that the petitioner and beneficiary met within the two-year time period prior to filing or that such a meeting would have resulted in extreme hardship or violated the customs of the beneficiary's culture or social practice. In response to the director's request for documentation, the petitioner submitted a certified copy of his court record, an original and English translation of the beneficiary's divorce decree and a certification from a tribal leader indicting that advance meetings before marriage arrangements are made is prohibited. In addition, the petitioner states that he and the beneficiary did not meet during the two-year time period required under section 214(d) of the Act because the beneficiary's parents oppose a meeting before marriage arrangements are made. *Petitioner's Letter*, undated. The petitioner states that for various reasons he has not been able to travel to Iran for the past twenty years and that due to the beneficiary's severe restrictions from her family she has not been allowed to leave Iran for a second country so that they can meet. *Id.* The letter submitted from an Imam where the beneficiary resides states that, "based on tribal and Islamic traditions the family will not approve to have a stranger meet their female family members without being related to them or without following the laws set forth by religious traditions." *Letter from [REDACTED]*, undated. He also states that, "it is against our Islamic tradition and culture for a female person to have any kind of contact or to have their pictures taken and be in close relationships with persons who are not yet members of their immediate family." *Id.*

On appeal, the petitioner submits an "absentee engagement" which indicates that agreements and arrangements between his family and the beneficiary's family have been completed on May 9, 2006. *Form I-290B*, dated April 25, 2008.

The AAO acknowledges the petitioner's assertion that the petitioner and beneficiary are unable to meet owing to the beneficiary's adherence to the Muslim faith. The AAO notes that in these circumstances U.S. Citizenship and Immigration Services relies on information provided by Imam Islamic Foundation of North America, which states:

It is declared that according to Islamic Law and practices, any adult Muslim boy or girl are not allowed to date or meet his/her partner before marriage. However, for finalizing the decision of marriage, it is permissible for both to see each other in the presence of their families.

The record does not show that the petitioner and beneficiary could not have met in person in the presence of their families. Thus, 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. After the petitioner and beneficiary have met, the petitioner may file a new Form I-129F petition on the beneficiary's behalf.

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.