

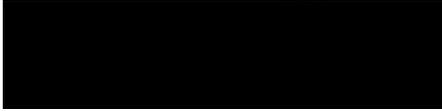
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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



OCT 17 2003

File:  Office: NEBRASKA SERVICE CENTER Date:

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

PUBLIC COPY

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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the 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 Pakistan, 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 and the beneficiary had not personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner or unique circumstances.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry.

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. . . .

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) on January 9, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 9, 2001 and ended on January 9, 2003.

In filing the petition, the petitioner stated that her engagement to marry the beneficiary was arranged by her and the beneficiary's parents. She stated that although she and the beneficiary had never personally met, they had been in contact through the exchange of e-mail and by telephone.

On appeal, the petitioner submits a letter and photographs indicating that the parties' engagement ceremony took place in the United States on February 8, 2003, without the beneficiary present. The petitioner states that her sister and her sister's fiancé, who

was present at the ceremony, were also engaged on that date.

On appeal, the petitioner also submits letters from two Seventh Day Adventist pastors. In his letter, Pastor [REDACTED] states that he conducted the engagement ceremony. In another letter Pastor [REDACTED] states that Pakistani culture does not allow the parties being engaged to see each other prior to the engagement ceremony, and that it is only after the ceremony that the couple may meet.

Pursuant to 8 C.F.R. § 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The letter from Pastor [REDACTED] merely states that the parties cannot "see" each other "prior to" an "engagement ceremony." It does not establish that a personal meeting of the parties would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Pastor [REDACTED] is a Seventh Day Adventist pastor, and there is no evidence contained in the record to establish that he is an authority with regard to Pakistani culture.

Furthermore, the petitioner has stated that her sister and her sister's fiancé were also engaged at the same engagement ceremony as the petitioner and beneficiary. Both the sister and her fiancé were physically present at the ceremony. If the sister's fiancé is Pakistani, this would seem to undermine Pastor Inayat's assertions.

In the instant case, the petitioner's reasons for not having met the beneficiary during the two years prior to filing the petition are not persuasive. The petitioner has not established that she warrants a favorable exercise of discretion to waive the requirement of a personal meeting with the beneficiary during the period that began on January 9, 2001 and ended on January 9, 2003. There is no objective documentary evidence contained in the record to establish that compliance with the requirement 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 this petition is without prejudice. If the petitioner and the beneficiary meet in person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that she and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the

requisite two-year period, the petition may not be approved unless the director grants a waiver of that requirement.

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.