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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted]
EAC 02 271 50752

Office: VERMONT SERVICE CENTER

Date:

MAR 29 2004

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 of the Administrative Appeals Office 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

Robert P. Wiemann, Director
Administrative Appeals Office

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prevent clearly unwarranted
invasion of personal privacy**

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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Pakistan, 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 had not offered documentation evidencing that he 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, or that meeting as required would violate strict and long-established customs of the beneficiary's foreign culture or social practice. *See* Decision of the Director, dated May 6, 2003.

Section 101(a)(15)(K) of 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 the Immigration and Naturalization Service [now Citizenship and Immigration Services] on August 27, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 27, 2000 and ended on August 27, 2002.

In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner submitted a statement declaring, "[A]ccording to our Culture, Religion and Values [sic] it is not necessary for a boy and a girl to have met each other before marriage." *See* Letter from Zia A. Syed, dated September 23, 2002. The petitioner submits two letters from an Imam at his mosque supporting his point regarding arranged marriages. *See* Letters from Dr. Ahmed Nezar Kobeisy, dated August 19, 2002 and September 25, 2002.

On appeal, the petitioner submits a letter dated March 30, 2003; copies of dated email correspondence between the petitioner and the beneficiary; copies of telephone bills reflecting calls made to Pakistan and a letter from the petitioner's sister, dated March 29, 2003. Further, the petitioner submits evidence that he traveled to Pakistan to meet the beneficiary in April 2003. The record includes a copy of a passport page containing a visa for Pakistan and two photographs of the petitioner and the beneficiary together.

The AAO does not find that compliance with the two-year meeting requirement violates strict and long-established customs of the beneficiary's foreign culture or social practice. The record establishes that the Muslim faith does not require the petitioner and the beneficiary to meet prior to marriage; the record does not demonstrate that the Muslim faith proscribes their meeting as required by U.S. immigration law.

Further, the evidence submitted establishes that the petitioner and the beneficiary met in April 2003, after the filing of the Form I-129F petition. While this meeting date does not suffice to establish compliance with section 214(d) of the Act under the original filing of the Form I-129F petition, the AAO notes that it would suffice as evidence for a Form I-129F petition filed subsequent to April 2003.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

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. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.