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U.S. Citizenship
and Immigration
Services

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DG

FILE: [REDACTED]
EAC 04 146 52376

Office: VERMONT SERVICE CENTER

Date: AUG 05 2005

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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting 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 Afghanistan, 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 acting director denied the petition after determining that the petitioner had not established that he and the beneficiary had personally met within the two-year period immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. Further, the director found that the petitioner had failed to establish that meeting as required would have imposed an extreme hardship to him. *Decision of the Acting Director*, dated October 4, 2004.

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 Citizenship and Immigration Services on April 16, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 16, 2002 and ended on April 16, 2004.

At the time of filing, the petitioner indicated that he had previously met the beneficiary in June 2001 in Iran. In response to the director's request for evidence as to whether the petitioner and beneficiary had met during the two-year period that preceded his filing of the Form I-129F, the petitioner again stated that he had previously met the beneficiary in June 2001 in Iran and submitted a copy of his U.S. passport with an Iranian visa issued for the period, June 7, 2001 to September 5, 2001 and an Iranian admission stamp. Since June 2001, the petitioner stated he has had only telephone contact with the beneficiary as he is a full-time college student with a job. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner contends that he and the beneficiary are prohibited from meeting prior to their wedding day, that such a meeting would violate Muslim custom and practice. To establish this prohibition, he submits a letter from the President of Mohammadia, the Islamic Association of Afghan, Inc. in Patterson, New Jersey. However, the letter states only that a premarital relationship between a man and woman is prohibited under Islamic law. It does not indicate that a meeting between the petitioner and beneficiary would have violated such law. Therefore, the record contains no evidence that a meeting with the beneficiary would have violated the customs of her culture or social practice.

On appeal, the petitioner states he is unable to marry the beneficiary in Pakistan, where she resides, because of security concerns that have been identified by the Department of State. The AAO is aware of the long-standing travel advisory issued by the Department of State with regard to the travel of U.S. citizens to Pakistan, but does not find that it establishes that compliance with the meeting requirement would have imposed an extreme hardship on the petitioner.

Although section 214(d) of the Act requires the petitioner and the beneficiary to have met between April 16, 2002 and April 16, 2004, it does not stipulate that the petitioner must travel to the country in which the beneficiary resides, nor marry the beneficiary in that country. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Pakistan, including whether the petitioner and beneficiary, accompanied by the appropriate family members, could have met in a third country to satisfy the meeting requirement. The AAO notes that, in June 2001, the beneficiary, despite difficulties, was able to travel to Iran for her engagement to the petitioner. Therefore, taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt

a petitioner from the meeting requirement of section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2). Accordingly, 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, he may file a new Form I-129F on behalf of the beneficiary so that a new two-year period in which the parties are required to have met will apply. The petitioner may also file a new Form I-129F petition on the beneficiary's behalf if sufficient evidence is available to establish the basis for an exemption of the meeting requirement under the language at 8 C.F.R. § 214.2(k)(2).

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.