

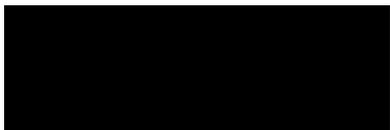
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

[Redacted]
EAC 04 191 52852

Office: VERMONT SERVICE CENTER

Date:

AUG 05 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 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 naturalized 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 acting 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 date of filing the petition, as required by section 214(d) of the Act, or that the petitioner should be should be exempted from that requirement. *Decision of the Acting Director*, dated November 23, 2004.

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 14, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on June 14, 2002 and ended on June 14, 2004.

At the time of filing, the petitioner indicated that she had last met the beneficiary in September 2001, prior to the two-year meeting period just indicated. On June 29, 2004, the acting director issued a request for evidence asking the petitioner to submit evidence that either a meeting had occurred between June 14, 2002 and June 14, 2004 or that such a meeting would have posed an extreme hardship to her or would have violated the customs of the beneficiary's culture or social practice. In response, the petitioner submitted a letter from an imam from Idara Dawat-O-Irshad, USA, Inc. stating that the petitioner and beneficiary are Muslim and are, therefore, not permitted to date and meet each other prior to their wedding. Noting that the petitioner had stated at the time of filing that she had previously met the beneficiary on several occasions, the acting director found the letter to be insufficient proof that a meeting between the petitioner should be exempted from the meeting requirement under 8 C.F.R. § 214.2(k)(2). The acting director's denial also indicated that the petitioner had failed to submit a Biographic Information sheet, Form G-325A, with the beneficiary's original signature as requested in the request for evidence.

On appeal, the petitioner states that hers is an arranged marriage, which can be confirmed by "many witnesses." She further contends that, as she had visited Pakistan in 2001 and had maintained communications with the beneficiary since that time, a second trip was unnecessary. She also submits a copy of the beneficiary's Form G-325A signed by the beneficiary.

The petitioner did not meet the beneficiary during the two-year period immediately preceding her filing of the Form I-129F and, therefore, has not satisfied the meeting requirement of section 214(d) of the Act. As proof that she should be exempted from the meeting requirement, the petitioner has submitted a letter from an imam, which states that the Muslim faith precludes the petitioner and beneficiary from meeting prior to their marriage. However, this evidence is not persuasive as the petitioner indicated at the time of filing that she had previously met the beneficiary during her trips to Pakistan in 1997, 1999 and 2001. She also contends that she qualifies for an exemption as hers is an arranged marriage. However, exemptions are not granted for arranged marriages but in those instances where a meeting between the petitioner and beneficiary would violate the "strict and long-established customs of the beneficiary's foreign culture or social practice." As already noted, the petitioner's own statements regarding her prior meetings with the beneficiary preclude such a finding.

The petitioner also asserts that a meeting with the beneficiary during the June 14, 2002 to June 14, 2004 period was unnecessary in light of her 2001 trip to Pakistan and continuing communication with the beneficiary. The AAO does not agree. The requirement that a petitioner have met the beneficiary during the two-year period immediately prior to the filing of a Form I-129F is statutory. Section 214(d) of the Act, 8 U.S.C. § 1148(d). As a result, it is necessary for petitioner to satisfy the meeting requirement or establish eligibility for an exemption from that requirement for CIS to approve the petition.

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 requirements at 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

With regard to the director's statement that the petitioner had failed to submit a signed Form G-325A for the beneficiary, the AAO finds that is not the case. The record shows that the petitioner submitted a G-325A, signed by the beneficiary, in response to the acting director's June 29, 2004 request for evidence.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner 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.