



U.S. Citizenship
and Immigration
Services

D6



FILE: [REDACTED]
WAC 04 168 51476

Office: CALIFORNIA SERVICE CENTER Date: AUG 31 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California 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 the United Arab Emirates (UAE), 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 record did not establish that the petitioner and 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. He further determined that the petitioner had failed to prove that her compliance with that requirement would have constituted an extreme hardship for her or would have violated the customs of the beneficiary's culture or social practice. *Decision of the 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 May 24, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 24, 2002 and ended on May 24, 2004.

At the time of filing, the petitioner indicated that she and the beneficiary had not previously met, stating that she planned to visit him in July 2004. Therefore, the evidence of record does not establish that the petitioner has complied with the two-year meeting requirement of section 214(d) of the Act.

In response to the director's notice of intent to deny, the petitioner submitted evidence of her email communication with the beneficiary and stated that she had traveled to the UAE to meet him in August 2004. She provided photographs of her trip. On appeal, the petitioner submits additional photographs of her August 2004 meeting with the beneficiary, as well as copies of her airplane ticket and passport pages with arrival and departure stamps. This evidence, however, does not allow the petitioner to establish compliance with the meeting requirement of section 214(d) of the Act.

The petitioner's August 2004 trip to the UAE occurred three months after she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has established she has met the beneficiary, this meeting did not occur within the two-year time period specified above – May 24, 2002 to May 24, 2004 – and does not satisfy the meeting requirement of section 214(d) of the Act. Further, the petitioner has offered no evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her or that such a meeting would have violated the customs of the beneficiary's 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. As the petitioner and beneficiary have met, she may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period 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.