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U.S. Citizenship
and Immigration
Services

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DG

FILE:

[REDACTED]
EAC 04 007 52372

Office: VERMONT SERVICE CENTER

DATE: FEB 22 2005

IN RE:

Petitioner:
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 of Jordan and a resident of Saudi Arabia, 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 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, and that the petitioner had not established that compliance with the meeting requirement would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Acting Director*, dated April 14, 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 October 9, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 9, 2001 and ended on October 9, 2003.

In response to the director's request for evidence and additional information, the petitioner submitted affidavits attesting to the fact that Islamic law allows for arranged marriages.

On appeal, the petitioner submits a letter indicating that traveling to meet the beneficiary would impose extreme hardship on her because she cannot afford to go overseas. The petitioner asserts that her parents would need to accompany her and they are not in good health and are likewise unable to afford the trip. Further, the petitioner states that she is unable to leave her parents because she provides care to them in an effort to nurse them back to good health. *Letter from Asmahan Farraj*, dated May 4, 2004. In support of these assertions, the petitioner submits a letter from the president of a Muslim community association stating that Muslim women are generally prohibited from traveling long distances without a male chaperone. The letter further indicates that a trip to Saudi Arabia would impose extreme financial hardship on the petitioner and her family. *Letter from Sabur Abdul-Salaam*, dated May 14, 2004.

The AAO notes that although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Saudi Arabia, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country. Moreover, the financial and time commitments required for travel to a foreign country are a common requirement to those filing the Form I-129F petition and do not constitute extreme hardship to the petitioner.

The AAO acknowledges the petitioner's assertion that she is unable to travel to meet the beneficiary owing to the couple's adherence to the Muslim faith. *Id.* The AAO notes that the submitted letter does not state that the petitioner is prohibited from meeting the beneficiary. The letter simply states that the petitioner needs to be accompanied by a male chaperone if she travels to meet the beneficiary. *Id.* The AAO notes that Citizenship and Immigration Services has experience with similar applications and relies on information provided by Imam Islamic Foundation of North America, which states,

It is declared that according to Islamic Law and practices, any adult Muslim boy or girl are not allowed to date or meet his/her partner before marriage. However, for

finalizing the decision of marriage, it is permissible for both to see each other in the presence of their families.

The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or 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 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.

ORDER: The appeal is dismissed.