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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JUL 08 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 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 fiancé of a United States citizen pursuant to § 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 § 214(d) of the Act. The director concluded that the petitioner failed to establish that meeting as required would cause the petitioner extreme hardship or would violate strict and long-established customs of the beneficiary's culture or social practice.

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 § 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 (CIS) on February 2, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 2, 2002 and ended on February 2, 2004.

In her statement submitted with the original petition, the petitioner wrote that the reason she and the beneficiary could not meet is that the travel expenses would present a financial hardship to both of them. In response to the director's request for evidence (RFE), the petitioner submitted a statement by the beneficiary regarding the cultural taboo in Pakistan against meeting one's future spouse, a list of employment conditions for the beneficiary prohibiting him from taking more than three days of leave at one time, a letter from the applicant's chiropractor stating that the petitioner suffers from lower back pain, and other documentation.

On appeal, the petitioner submits an unsigned but attested statement which the beneficiary sent to her. The writer of the statement indicates that Christian citizens of Pakistan are bound to follow the laws of the land and the Islamic customs which prevail in Pakistan. The writer states that Pakistani Christians also follow the Muslim custom of avoiding meeting their future spouses prior to marriage. The AAO notes that CIS 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.

If, as the beneficiary has written, Christians follow Islamic customs in Pakistan, then Christians are also permitted to meet their future spouses prior to marriage in a chaperoned situation.

The AAO notes that the petitioner failed to mention any medical problem when she originally requested to be excused from the physical meeting requirement on January 20, 2004. On appeal, however, the petitioner reiterates her statement in response to the RFE that her physical problems preclude her from traveling. She refers to her chiropractor's letter, dated August 23, 2004, and submitted in response to the RFE. The medical evidence contains no diagnosis, prognosis, or any other details regarding the applicant's physical pain. The medical letter does not provide sufficient basis upon which the AAO may conclude that traveling would cause the petitioner extreme hardship. Moreover, the the AAO points out that 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 evidence of record has been reviewed in its entirety. 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 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* § 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.