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U.S. Citizenship  
and Immigration  
Services

*DB*



FILE: [REDACTED]  
WAC 04 046 51096

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 03 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 Director, California 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 Afghanistan, 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 petitioner had not established that she 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 violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated June 30, 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 December 5, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 5, 2001 and ended on December 5, 2003.

At the time of filing, the petitioner indicated that she had not previously met the beneficiary and submitted a letter from a Muslim imam stating that Afghan custom did not permit her to travel to meet her fiancé, although he noted the beneficiary was free to travel in order to meet the petitioner. In response to the director's notice of intent to deny, the petitioner again submitted a statement from the same imam reiterating the Afghan cultural prohibition against the petitioner's travel to Afghanistan.

On appeal, the petitioner states that while it is possible for her to meet with the beneficiary in the presence of a chaperone, it would be difficult to afford the cost of travel to Afghanistan for herself and a chaperone. Further, she notes that should she travel to Afghanistan without first obtaining a chaperone, it would result in a loss of honor and dignity. Finally, she states that she does not wish to be away from her mother who is seriously ill. The petitioner's reasons for not traveling to Afghanistan do not, however, establish eligibility for an exemption of the meeting requirement.

Although section 214(d) of the Act requires the petitioner and the beneficiary to have met between December 5, 2001 and December 5, 2003, it does not stipulate that the petitioner must 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 Afghanistan, specifically the beneficiary's travel to the United States. As stated by the imam in the letter submitted by the petitioner at the time of filing, Afghan custom would not have prevented the beneficiary from traveling to meet the petitioner and her family during the specified time period. The petitioner's statements regarding the cost of travel to Afghanistan also do not establish a basis for an exemption under 8 C.F.R. § 214.2(k)(2). The financial costs associated with travel to a foreign country are a common concern for individuals who wish to file Form I-129F petitions. As a result, they do not constitute extreme hardship.

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 214(d) of the Act. Accordingly, 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.