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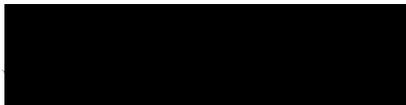
Office: NEBRASKA SERVICE CENTER

Date:

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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 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, Nebraska 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 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 May 10, 2005.

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 29, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 29, 2002 and ended on December 29, 2004.

In response to the director's request for evidence and additional information, the petitioner stated that she was unable to travel to Pakistan owing to her medical condition as evidenced by a physician's letter that she previously submitted. The petitioner further indicated that United States Department of State travel warnings led her to feel unsafe about traveling to Pakistan. The petitioner submitted statements from an attorney in Pakistan and a reverend of the Pentecostal Fellowship Churches in Pakistan stating that the petitioner and the beneficiary are prohibited by custom to meet prior to marriage. The acting director determined that the petitioner and the beneficiary had failed to explore options for a meeting beyond the petitioner traveling to meet the beneficiary, including, but not limited to the beneficiary traveling to meet the petitioner in the United States.

On appeal, the petitioner states that she and the beneficiary considered other options for meeting including traveling to Cyprus, but that the visa requirements for other countries made it impossible for the beneficiary to qualify. She indicates "any one who knows the customs of a Muslim country also knows why we could not meet in Pakistan." *Letter from Uva Ankenbauer*, undated. The petitioner claims that the decision of the acting director failed to quote an independent professional medical decision, federal statute, or case citation challenging the petitioner's diagnosis of lupus and the danger of extensive travel. *Statement from Uva Ankenbauer*, dated June 6, 2005.

The AAO notes that the decision of the acting director does not challenge, but is instead premised on acceptance of, the submitted physician letter. Acknowledging that the petitioner is unable to meet the beneficiary in Pakistan, the decision of the acting director notes the lack of evidence in the record that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to meet the beneficiary, including, but not limited to the beneficiary traveling to meet the petitioner in the United States. 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 inability of the petitioner to travel to the home country of the beneficiary standing alone does not warrant a finding of extreme hardship to the petitioner.

The AAO acknowledges the petitioner's submission of letters from an attorney and a reverend in Pakistan attesting to the fact that the petitioner and the beneficiary are prohibited by custom from meeting prior to marriage. The statements of the petitioner, however, evidence that she and the beneficiary are willing to meet in a third country without reference to cultural custom. See *Letter from Uva Ankenbauer* ("I would like you to know

that we also did check other avenue [sic]. We both looked into other countries.”). While the petitioner contends that a meeting in a third country is precluded by visa requirements, the record fails to substantiate the assertions made by the petitioner in this regard. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

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.