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**U.S. Citizenship
and Immigration
Services**

DL



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

SEP 06 2005

WAC 03 199 53633

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 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 Iran, as the fiancée 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 filing of the petition, as required by section 214(d) of the Act. He further determined that the petitioner had failed to prove that his compliance with that requirement would have constituted an extreme hardship for him or would have violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated June 1, 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 June 25, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 25, 2001 and ended on June 25, 2003.

At the time of filing, the petitioner stated he and the beneficiary had not previously met, noting that he was unable to travel to Iran and the beneficiary was unable to come to the United States. He indicated that he was unable to return to Iran as a result of his previous political activities. 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 request, the petitioner submitted evidence regarding his 1988 parole into the United States as proof of his inability to travel to Iran. He further stated that he and the beneficiary had considered meeting outside Iran, but that the beneficiary and her mother were unable to obtain permission to travel to Europe. He stated that while travel to Turkey was a possibility, it was considered to be unsafe.

On appeal, the petitioner submits documentation to show that he traveled to Denmark and France in June 2002 and asserts that the beneficiary applied for tourist visas to both countries, but was denied. He also asserts that the beneficiary made additional attempts to travel to meet him in 2003 and 2004, but, again, could not obtain the necessary visas. As evidence, he submits a signed declaration from the beneficiary regarding her attempts to obtain nonimmigrant visas for travel outside Iran. The petitioner also provides copies of his 2003 telephone billing records showing his calls to the beneficiary's home in Tehran as proof of his continuing relationship with her. This evidence, however, does not establish that compliance with the meeting requirement would have created extreme hardship for the petitioner.

While the AAO acknowledges that the petitioner may not be able to travel to Iran, he has not established that he and the beneficiary were unable to meet outside Iran during the two-year period that preceded his filing of the petition. The petitioner's statements regarding the beneficiary's attempts to obtain visas to travel outside Iran and the declaration signed by the beneficiary do not constitute proof of their efforts to meet. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Further, even if the petitioner had submitted written visa refusals from the governments of Denmark, France and Dubai for the beneficiary, these refusals do not establish that she and the petitioner were unable to comply with the meeting requirement. The beneficiary states that she sought visas to visit France and Denmark in June 2002 and Dubai in 2003; she does not indicate that she made any additional attempts to obtain tourist visas for travel to other countries, including the United States, during the specified time period. The beneficiary's three attempts to obtain a tourist visa are insufficient to establish that the petitioner and beneficiary engaged in a concerted effort to comply with the meeting requirement.

In 2004, the beneficiary also appears to have considered traveling to Turkey to meet the petitioner. According to her statement, she was ultimately dissuaded from undertaking the trip by the petitioner's unspecified concerns, as well as those of her family, for her safety. However, a 2004 meeting between the petitioner and beneficiary, even if it had occurred, would have fallen outside the two-year time period that preceded the filing of the instant petition and would, therefore, have failed to satisfy the meeting requirement of section 214(d) of the Act.

With regard to whether a meeting between the petitioner and the beneficiary would have violated the customs of the beneficiary's culture or social practice, the record does not indicate that religious beliefs or social mores precluded a meeting between the petitioner and beneficiary. Rather, the petitioner's statements regarding his intention and efforts to meet the beneficiary lead to the conclusion that such concerns played no part in the petitioner's failure to comply with the meeting requirement.

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 section 214(d) of the Act. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Once the petitioner and beneficiary have met, he 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.