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FILE: [Redacted]
EAC 04 137 54700

Office: VERMONT SERVICE CENTER

Date:
SEP 20 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 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 Palestinian, 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 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 failed to establish eligibility for an exemption from the meeting requirement under 8 C.F.R. § 214.2(k)(2). *Decision of the Acting Director*, dated October 4, 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 April 5, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 5, 2002 and ended on April 5, 2004.

At the time of filing, the petitioner indicated that she had met the beneficiary in Israel and Jordan in 1998, 1999, 2000 and 2001, becoming engaged on August 10, 2001. In support of her statements, she submitted copies of pages from her U.S. passport showing admission stamps for both countries, a copy of a photograph of her 2001 engagement party, and copies of telephone bills showing overseas telephone calls. In response to the director's request for evidence that the petitioner and beneficiary had met during the specified period or that such a meeting would have constituted an extreme hardship for the petitioner or would have violated the customs of the beneficiary's culture or social practice, the petitioner submitted a statement indicating that her last meeting with the beneficiary had occurred in 2001. She asserted that her Arab culture prevented her from traveling to meet the beneficiary by herself. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner again contends that her Islamic religion and culture prevent her from going out alone or going where she chooses, that she must have someone older from her family accompany her as a chaperone. She states that no family member is willing to incur the expense of traveling with her to meet the beneficiary and that the only way they can meet is for the beneficiary to travel to the United States as a beneficiary of the instant petition.

The petitioner contends that she was prevented from meeting with the beneficiary because no family member was willing to incur the expenses involved in traveling overseas with her and her culture prevented her traveling alone. However, the travel costs cited by the petitioner as the reason she could not obtain a chaperone to travel to meet the beneficiary are a common concern for many individuals who wish to file Form I-129F petitions. As a result, they do not constitute a basis for a finding of extreme hardship. Further, while section 214(d) of the Act requires a petitioner and beneficiary to have met during the specified meeting period, it does not require the petitioner to travel to the country in which the beneficiary resides. The record, however, does not indicate that the petitioner and beneficiary explored any options for a meeting beyond the petitioner traveling to Israel or Jordan, including meeting in the United States or at a location nearer the United States, thus reducing the costs of travel for the petitioner and her family.

The AAO has also considered the petitioner's statement concerning the constraints placed on her by her religion and culture with regard to compliance with the meeting requirement. However, the petitioner has clearly indicated that a meeting with the beneficiary could have occurred as long as she was chaperoned by an older family member. As a result, the record does not establish that compliance with the meeting requirement would have violated any of the beneficiary's religious or cultural norms.

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 requirements at 8 C.F.R. § 214.2(k)(2). Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Should the petitioner and beneficiary meet, she may file a new Form I-129F petition on the beneficiary's behalf if she can 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.