

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

46

PUBLIC COPY



FILE: [REDACTED] Office: VERMONT SERVICE CENTER
EAC 05 137 51711

Date: APR 13 2006

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of India, 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 and beneficiary had not personally met within two-year period preceding the 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 have constituted an extreme hardship for her or would have violated strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated August 3, 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.

As the regulation does not define what may constitute extreme hardship to the petitioner, 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 April 14, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 14, 2003 and ended on April 14, 2005.

At the time of filing, the petitioner indicated that she and the beneficiary had previously met, but did not state whether a meeting had occurred within the time period just specified. In response to the director's request for evidence, the petitioner stated that she had not traveled to India during the specified period because of her academic studies. Therefore, the evidence of record does not establish that the beneficiary has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner asserts that her marriage to the beneficiary is being traditionally arranged and that it is not important or required that she meet the beneficiary before they actually marry. She further states that her full-time studies would have made it difficult for her to travel to India during the specified period.

Based on the evidence of record, the petitioner has not established eligibility for an exemption of the meeting requirement under either of the two grounds set forth at 8 C.F.R. § 214.2(k)(2) – compliance would result in extreme hardship to her or would violate customs of the beneficiary's culture or social practice.

The petitioner has stated that she did not comply with the meeting requirement of section 214(d) of the Act because of her college studies and because her cultural practice does not require a meeting with the beneficiary prior to their marriage. However, the balancing of personal obligations, including those involving education, with overseas travel is a challenge faced by many individuals who wish to file Form I-129Fs and does not constitute extreme hardship. Further, the petitioner has not claimed that her cultural norms prevent her from meeting the beneficiary prior to marriage, only that they do not require such a meeting. Accordingly, the petitioner has not established that she qualifies for an exemption from the meeting requirement under the regulation at 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. Should the petitioner and the beneficiary meet, she may file a new Form I-129F petition on his behalf so that a new two-year period in which the parties are required to have met will apply.

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.