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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: AUG 11 2006

IN RE:

Petitioner:



Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the 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 Kenya, as the fiancé of a United States citizen pursuant to § 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 offered documentation evidencing that she and the beneficiary had personally met within two years before the date of filing the petition, as required by § 214(d) of the Act. Further, the director found that the petitioner failed to establish that meeting as required would cause her extreme hardship or would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

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 § 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 12, 2005. Therefore, the petitioner and the beneficiary were required to have met during the two-year period that began on December 12, 2003. The petitioner and beneficiary have never met in person, which the petitioner contends is not permitted by her religion, Islam.

The petitioner states that she is unable to travel to Kenya to meet the beneficiary prior to marriage, because her religion prohibits her from traveling without an Islamically approved male escort, or Mahrim. The petitioner asserts that no one is available to act as her Mahrim. The AAO notes that beyond her stated aversion to meeting the beneficiary prior to marriage, the record contains no evidence that the petitioner adheres to the strictest interpretations of Islam in other areas of her life. For example, the AAO notes that the petitioner is employed as a career center specialist with the Seattle Public School system. Presumably, she interacts with unrelated males in her job. The record does not reflect that the petitioner lives in seclusion from unrelated males or that she never met her previous two spouses prior to her marriage to them. The petitioner has not established that a chaperoned meeting between herself and her fiancé would so conflict with her manner of observing and practicing her religion as to cause her to suffer extreme hardship.

Moreover, as the director noted, however, the petitioner is not required to travel to Kenya; the beneficiary may visit the petitioner in a location in or bordering the United States. Although the petitioner states on appeal that Islam prohibits a male from traveling for the purpose of meeting a woman, even if he and the woman have agreed to marry, no such doctrine is found in Islamic authoritative literature on the record or elsewhere available. On the contrary, the AAO notes that the Imam Islamic Foundation of North America states that:

It is declared that according to Islamic Law and practices, any adult Muslim boy or girl are not allowed to date or meet his/her partner before marriage. However, for finalizing the decision of marriage, it is permissible for both to see each other in the presence of their families.

The evidence does not establish that a meeting between the parties would violate the beneficiary's religious beliefs, or that all other aspects of the traditional arrangements have been or will be met in accordance with strict Islamic practices. The petitioner also notes that the beneficiary has insufficient financial means to make the trip to the United States. Financial difficulties are a common challenge encountered in long-distance relationships and do not constitute extreme hardship to the petitioner.

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.