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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: NEBRASKA SERVICE CENTER

Date: **SEP 28 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, 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 fiancée 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 acting director denied the petition after determining that the petitioner had not offered documentation evidencing that he 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 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 August 29, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 29, 2003 and ended on August 29, 2005. The two have never met, however.

The record includes a letter written by the petitioner on August 23, 2006, in which he wrote that his fiancée works as a physician in Pakistan. He also wrote that he preferred not to travel to Pakistan to meet his fiancée, because he did not want to take time off from work or incur expenses. The petitioner failed to make any mention of the beneficiary's strict social customs. The acting director found that the reasons mentioned by the petitioner did not amount to extreme hardship, as employment and financial concerns are common burdens faced by individuals petitioning for alien fiancées.

On appeal, the petitioner submits a letter written by his fiancée on November 22, 2006, in which she asserts that she wears a full Islamic face cover and is prohibited from talking to anyone to whom she is not married. She writes that her religion does not allow a man and woman to meet before their wedding day. The petitioner also submits a letter dated November 22, 2005 written by the beneficiary's parents, reiterating the same assertions. The AAO notes that the beneficiary lives in Islamabad and, according to the petitioner, works as a medical doctor. Electronic mail correspondence on the record indicates, in fact, that the beneficiary was studying arduously to prepare for the U.S. Medical Licensing Examination, indicating a possible intent to practice medicine in the United States. There is no explanation on the record regarding how she avoids speaking to anyone to whom she is unmarried while working as a doctor in the Pakistani capital, or whether she plans to continue to wear a full facial covering in the United States. In other words, the record does not include any evidence other than the aforementioned affidavits regarding the beneficiary's asserted adherence to the strictest Islamic and/or Pakistani customs.

In addition, the petitioner submits on appeal a letter written by the Imam of the Assaber Mosque in Portland Oregon. [REDACTED] The Imam explains that according to Islam, unmarried, unrelated men and women must not be alone together, and women must dress modestly and cover themselves in front of unrelated men. The Imam does not state that an engaged couple is prohibited from meeting under any circumstances, such as in a chaperoned, family situation. In fact, according to information provided by Imam Islamic Foundation of North America:

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 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 of having met the beneficiary is available. The burden of proof in these proceedings rests solely with the petitioner. *See* § 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.