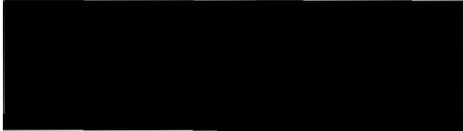




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



DLF

FILE: [REDACTED]
EAC 06 110 50189

Office: VERMONT SERVICE CENTER

Date: FEB 22 2007

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 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, 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 Algeria, 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 record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated August 17, 2006.

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 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 March 6, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 6, 2004 and ended on March 6, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary last met in 2002 in Jordan. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

In response to the Director's request for evidence, the petitioner submitted a statement by a religious authority stating that at no time, according to typical Muslim and Algerian tradition would the intended fiancé be allowed to be alone with the beneficiary until after they are married, and only a formal meeting would be allowed, witnessed by and in the presence of her family members. *Statement from [REDACTED] President, United Muslim Mosque, Inc.*, dated April 14, 2006. The petitioner also submitted statements from family members and friends confirming the validity of his relationship to the beneficiary and their intent to marry.

On appeal, the petitioner stated that he met the beneficiary years ago in a formal environment and that the father of the beneficiary has denied the petitioner's request to meet again due to his Islamic beliefs. *Statement from the petitioner*, dated August 21, 2006. The petitioner did not submit any additional documentation.

The AAO notes that Citizenship and Immigration Services has experience with similar applications and relies on information provided by Imam Islamic Foundation of North America, which states,

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.

Although on appeal, the petitioner states that the beneficiary's father will not allow him to see the beneficiary prior to their wedding day, he has submitted no evidence to support this claim. The statements provided by the petitioner that relate to a meeting with the beneficiary indicate only that she and the petitioner may not see one another except in the presence of family members. The record contains no statement from the beneficiary's father indicating that he has prohibited any meeting between the petitioner and his daughter. Neither does the record include a statement from an authority knowledgeable about the religious beliefs that the petitioner indicates are the basis in which the beneficiary's father has refused to allow him to see the beneficiary prior to marriage. Absent such evidence, the petitioner's statements are insufficient proof that he has been unable to meet the beneficiary during the two-year period immediately preceding his filing of the Form I-129F. 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.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form 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.