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

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SEP 18 2007

FILE:



Office: CALIFORNIA SERVICE CENTER Date:

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IN RE:

Petitioner:

Beneficiary:



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, California 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 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. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated March 8, 2007.

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 December 11, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 11, 2004 and ended on December 11, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had never met. 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 states that he is unable to travel to Pakistan because he owns a car transportation business that requires his physical presence all of the time. *Form I-290B and attached statements*. The petitioner notes that he is the sole owner of United Limousine, LLC and continually receives calls from accounts that his company services. *Statement from the petitioner*, dated March 22, 2007. The petitioner asserts that if he left the country and went to a location where his phone would not be able to receive a signal, he would be forced to stop operating his business. *Id.* While the AAO acknowledges the assertions made by the petitioner, it notes that being absent from one's employment is one of the ordinary hardships that individuals must face in order to satisfy section 214(d) of the Act and does not rise to the level of extreme. Furthermore, the petitioner is not required to meet his fiancée in Pakistan. Section 214(d) of the Act requires only that the petitioner and beneficiary meet during the specified period, not that the petitioner travel to the beneficiary's homeland. The petitioner in the present case has, however, presented no evidence that he and his fiancée have explored meeting in another country, including the United States, to satisfy the requirements of section 214(d) of the Act.

The AAO notes that the record includes a letter from the Embassy of Pakistan stating that arranged marriages in Pakistan are an Islamic tradition and couples normally do not meet each other before their marriage. *Letter from the Embassy of Pakistan*, dated January 6, 2004. At the time of filing, the petitioner stated that his marriage to the beneficiary had been arranged by their families and that arranged marriages in Pakistan are common between Islamic families. The AAO notes that the record includes a letter from the Embassy of Pakistan stating that arranged marriages in Pakistan are an Islamic tradition and couples normally do not meet each other before their marriage. The record also contains an affidavit from the father of the beneficiary, which states that he dislikes his daughters traveling alone and that he takes them where they want to go. *Affidavit from the beneficiary's father*, dated March 24, 2007. The beneficiary states that her father goes with her where she wants to go because he is a good father and a good guard. *Affidavit from the beneficiary*, dated March 24, 2007.

In that the record indicates only that Muslim couples in Pakistan normally do not meet prior to their marriage, not that this meeting is prohibited, the AAO finds the record to indicate that the beneficiary's father could have accompanied her to meet the petitioner in the United States or a country near the United States to satisfy the meeting requirement of section 214(d) of the Act.

The record also includes an affidavit from the father of the beneficiary which states that he dislikes his daughters traveling alone and that he takes them where they want to go. *Affidavit from the beneficiary's father*, dated March 24, 2007. The beneficiary states that her father goes with her where she wants to go because he is a good father and a good guard. *Affidavit from the beneficiary*, dated March 24, 2007. In that the record does not indicate that a meeting between the petitioner and beneficiary is prohibited, the AAO finds that the beneficiary's father could accompany her to meet with the petitioner.

The AAO does not find that the petitioner has offered evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him or that such a meeting would have violated the customs of the beneficiary's culture or social practice. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. Once the petitioner and beneficiary have met, 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.