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U.S. Citizenship  
and Immigration  
Services

D6



FILE:

WAC 07 191 54548

Office: CALIFORNIA SERVICE CENTER

Date APR 29 2008

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 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, California 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 Afghanistan, 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 petitioner had failed to establish that he and the beneficiary had met within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated November 16, 2007.

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 section 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-129) with Citizenship and Immigration Services on June 11, 2007. Therefore, the petitioner and beneficiary were required, by law, to have met during the period that began on June 11, 2005 and ended on June 11, 2007.

At the time of filing, the petitioner stated that he had visited Afghanistan from July 5, 2005 to July 25, 2005, but did not meet his future fiancée at that time. *Letter from Petitioner*, dated May 30, 2007. He stated that after an exchange of photographs, the beneficiary agreed to become engaged. He also stated that his fiancée has no experience with traveling and cannot travel alone. *Id.*

On appeal, the petitioner states that meeting his fiancée in person is contrary to established Afghan custom and religion and is prohibited. *Form I-1290B*, dated December 3, 2007. The petitioner states that his engagement is public knowledge and has been celebrated by both families, making the cancellation of the engagement embarrassing, stressful and shameful. *Letter from Petitioner*, dated December 3, 2007. He states further that the beneficiary is very anxious about the status of her case and that a denial of the petition would be devastating for both of them and an extremely harsh penalty for the beneficiary because, for a woman in Afghanistan, an unsuccessful engagement leaves a stigma making further relationships unlikely. *Id.*

In the absence of substantiating documentation, the assertions of the petitioner do not form the basis for a finding that compliance with the meeting requirement would violate the customs of the beneficiary's culture or social practice. Furthermore, at the time of filing the petitioner made no claims regarding a meeting between himself and the beneficiary being in violation of the customs of the beneficiary's culture. The petitioner indicated that following the approval of his petition he would be traveling to Kabul, Afghanistan to accompany his fiancée back to the United States. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The petitioner must submit supporting documentation to support his claims. Thus, the record does not support a finding that a meeting between the petitioner and beneficiary would violate the customs of the beneficiary's culture or social practice. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. After the petitioner and beneficiary have met, the petitioner may file a new 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.