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U.S. Citizenship
and Immigration
Services

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FILE:

EAC 08 043 51646

Office: VERMONT SERVICE CENTER

Date: **NOV 24 2008**

IN RE:

Petitioner:

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.

John F. Grissom, Acting 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 Pakistan, as the fiancé 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 she 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 March 21, 2008.

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 November 28, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 28, 2005 and ended on November 28, 2007.

At the time of filing, the petitioner indicated that she and the beneficiary had not met but that they had exchanged pictures and were communicating through the internet and telephone. *Form I-129*, dated November 5, 2007.

On February 14, 2008, the Director requested additional documentation showing that the petitioner and beneficiary had met during the two-year period immediately preceding the filing of the petition or that meeting the beneficiary during the two-year time period prior to filing would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. In response to the director's request for documentation, the petitioner submitted a statement and a statement from her mother. She also submitted two passport-style photographs of herself and two passport-style photographs of the beneficiary; e-mail exchanges between herself and the beneficiary; and copies of her naturalization certificate, the beneficiary's passport and the beneficiary's birth certificate. In her statement, the petitioner states her feelings for the beneficiary and her intent to marry him. *Petitioner's Statement*, dated March 7, 2008. The statement submitted by the petitioner's mother reiterates the commitment between the petitioner and the beneficiary. *Petitioner's Mother's Statement*, dated March 10, 2008.

On appeal, the petitioner submits a letter, which states that she intends to marry the beneficiary and that an in-person meeting is not possible because the beneficiary is residing in Pakistan without permission and cannot travel to the United States. *Petitioner's Statement*, dated April 17, 2008.

The AAO notes that, although the petitioner states that the beneficiary is residing in Pakistan without permission, the documentation in the record, including the copy of the face page from the beneficiary's Pakistani passport, indicates that he is a citizen of Pakistan. The beneficiary's passport states that it is valid until December 29, 2011. Furthermore, although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the beneficiary to travel to the petitioner's home country. The record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the beneficiary traveling to the United States, including, but not limited to the petitioner traveling to meet the beneficiary in Pakistan or a bordering country or the beneficiary traveling to meet the petitioner in a country bordering the United States. Thus, the AAO finds that the current record does not show that a meeting between the petitioner and beneficiary during the two-year time period prior to filing the petition would have constituted an extreme hardship or 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. 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.