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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
O.I.B., 3rd Floor  
Washington, D.C. 20515



File # [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 13 2002

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)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

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PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiseman, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. 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 India, as the fiance(e) 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 and the beneficiary had not personally met within two years before the date of filing the petition as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner had failed to establish that he warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who is the fiancée or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiance(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 bonafide 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...|emphasis added!

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on February 5, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on February 5, 1999 and ended on February 5, 2001.

In response to Question #19 on the Form I-129F, the petitioner indicated that the marriage had been arranged and that he had not met the beneficiary in person. In response to a request for additional information, the petitioner submitted a letter stating that arranged marriages are the custom, culture, and social practice in his family and that he cannot leave his small business for even a couple of weeks in order to travel to India. The petitioner further indicated that he would like to marry the

beneficiary because she is from a good family, has been approved by his family, and that because she is widowed, no one in India will marry her.

On appeal, the petitioner states that he manages his brother's business and that it is very hard for him to travel to India because he is not making enough money at the present time. He states that he wants to marry the beneficiary as soon as she arrives in the United States and requests that the petition be favorably considered. In support of the appeal, the petitioner submits a business card from Jasmine Cleaners and a pay statement from Swiss Cleaners and Laundry indicating that he was paid \$315.44 for one week's work in October 2001.

Pursuant to 8 C.F.R. 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In the instant case, the petitioner's stated reasons for needing a waiver are not persuasive. Financial and time constraints are normal difficulties encountered in complying with the requirement and are not considered extreme hardship to the petitioner. In addition, the petitioner has failed to establish that compliance with the requirement would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

Pursuant to 8 C.F.R. 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner and the beneficiary meet in person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that he and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the requisite two-year period, the petition may not be approved unless the director grants a waiver of that requirement.

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.