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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

D-7

FILE:

[REDACTED]  
EAC 06 258 51697

Office: VERMONT SERVICE CENTER

Date: AUG 30 2007

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:

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 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 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 January 31, 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 September 18, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 18, 2004 and ended on September 18, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had never met, and that in their culture, the parents or the elders arrange the marriage with the children's consent. *Form I-129F*. 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 and additional information, the petitioner submitted a letter from [REDACTED], Director and Imam, the Islamic Center of the Capital District (ICCD), which stated that the petitioner could not travel to see her fiancé for religious reasons, as she is not allowed to travel without being accompanied by a male family member. *See letter*, dated November 1, 2006. [REDACTED] also stated that if the petitioner were to travel, her family would undergo extreme hardship because the petitioner would not be able to assist her disabled father with his work. *Id.* The record includes a statement from the petitioner; a statement from the petitioner's father; a statement from the Office of Children and Family Services verifying that the petitioner's father is legally blind; a letter from the Office of Children and Family Services verifying that the petitioner's father manages a store with assistance from the petitioner; letters of support from friends; and published reports discussing the ability of Muslim women to travel alone.

On appeal, the petitioner states that it would be an extreme hardship for her to meet the beneficiary in person. *Form I-290B*.

The petitioner contends that she was not in a position to go to Pakistan to meet the beneficiary during the specified period because of her religious customs, which preclude women from traveling alone. She indicates that she has no relatives in the area with whom she could have traveled and that her two brothers are young and cannot afford to be out of school for any period. *Statement from the petitioner*, dated February 21, 2007. In support of her claim, the petitioner has submitted the above referenced letter from [REDACTED]. The petitioner also asserts that travel to Pakistan would have imposed hardship on her family because she assists her legally blind father run a newsstand store and the size of the business would not have allowed him the luxury of hiring someone to replace her. *Id.*

While the AAO acknowledges the difficulties raised by the petitioner, it notes that the meeting requirement of 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 home country. In the present case, the record offers no evidence that the petitioner and beneficiary explored meeting in the United States to eliminate the need for the petitioner to travel or in a country near the United States to minimize her travel and allow her father to accompany her. While the AAO notes that there have been occasions in the past when the petitioner has not been able to be at the store and during that time, a friend assisted her father. *Letter from [REDACTED]*, dated February 15, 2007. Additionally, the store is only open on state business days. *Letter from the Office of Children and Family Services*, dated February 22, 2007. As such, the AAO finds that it would not have constituted hardship to the petitioner's family if she had been absent from the store for a short period of time during the specified period.

Based on the record before it, 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 her 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. Should the petitioner and beneficiary meet, she 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.