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

U.S. Citizenship and Immigration Services

[redacted]

D6

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JUN 25 2004

EAC 02 295 50384

IN RE: Petitioner: [redacted]
Beneficiar

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, Director
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 of Somalia and resident of Egypt, 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 not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. Further, the director found that the petitioner failed to establish that meeting as required would violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated July 21, 2003.

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-129F) with the Immigration and Naturalization Service [now Citizenship and Immigration Services] on September 27, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on September 27, 2000 and ended on September 27, 2002.

In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner submitted a letter from the director of an Islamic center indicating that the petitioner and the beneficiary cannot meet in person until their marriage according to Islamic Law. *Letter from Samir Abo-Issa*, dated January 13, 2003.

On appeal, the petitioner submits a letter reiterating that he cannot meet with the beneficiary "in person as my custom does not allow a meeting between two arranged in marriage prior to the wedding day." *Letter from Ahmed Mohamed*, dated August 1, 2003. The petitioner provides a letter from the director of the Somali Mai Community of Minnesota, Inc. to support his contentions. The AAO notes that Citizenship and Immigration Services (CIS) has experience with similar applications and relies on information provided by Imam Islamic Foundation of North America, which states,

> It is declared that according to Islamic Law and practices, any adult Muslim boy or girl are not allowed to date or meet his/her partner before marriage. However, for finalizing the decision of marriage, it is permissible for both to see each other in the presence of their families.

On appeal, the petitioner also submits a copy of a CIS announcement extending temporary protected status in the United States to nationals of Somalia. The petitioner states that the beneficiary's father was killed and the beneficiary had been in hiding to avoid violence in Somalia. The petitioner states that he could not meet with the beneficiary, as her whereabouts were unknown. *Letter from Ahmed Mohamed.* The record offers no evidence to support the assertions of the petitioner. Further, the petitioner does not provide the date on which the beneficiary's father was killed or dates during which the beneficiary was in hiding and consequently, unreachable. The petitioner, therefore, fails to establish that it was not possible for the petitioner and the beneficiary to meet during the two-year period immediately preceding the filing of the Form I-129F petition.

The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.