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U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

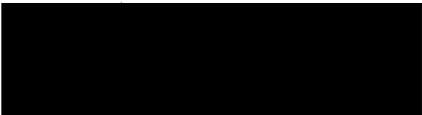
Date: MAY 03 2005

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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 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, 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 Pakistan, 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 and the beneficiary had not personally met during the two years immediately preceding the date of filing of the petition, as required by section 214(d) of the Act and that the record did not establish the petitioner as qualified for an exemption from this requirement. *Decision of the Director*, dated March 24, 2004.

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 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 Citizenship and Immigration Services on March 10, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 10, 2001 and ended on March 10, 2003. .

At the time of filing, the petitioner indicated that he had previously met his fiancée in 1998, but did not state whether a meeting had occurred during the two-year period just noted. In response to the director's request for evidence, the petitioner provided documentation of his proxy marriage to the beneficiary, but did not submit evidence of any meeting during the two-year period immediately preceding his filing of the Form I-129. The director's denial subsequently informed the petitioner that, per the language of section 101(a)(35) of the Act, a proxy marriage did not constitute a marriage for immigration purposes.

On appeal, the petitioner states that, at the time of filing, he was ignorant of the meeting requirement found in section 214(d) of the Act and hoped that a proxy marriage would indicate his sincere intention to marry the beneficiary upon her arrival in the United States. He contends that he could not afford the cost of a trip to Pakistan, nor the time away from his employment, and that, as a young man, he is afraid to travel to Pakistan "because of the political stigma attached to that part of the world." He further states that the proxy marriage has placed the beneficiary in a difficult position, as a woman in Pakistan who is married yet remains in her parents' home is an object of shame. The petitioner's reasons for failing to comply with the meeting requirement do not, however, establish a basis for an exemption under 8 C.F.R. § 214.2(k)(2). The costs of and time required for travel to a foreign country are common concerns for individuals who wish to file Form I-129F petitions. As a result, they do not constitute extreme hardship. Further, the petitioner's personal concerns about how he might be perceived following a trip to Pakistan cannot serve as a basis for a finding of extreme hardship.

Therefore, the evidence of record does not establish that the petitioner has satisfied the requirements at section 214(d) of the Act. Further, taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that would exempt a petitioner from the meeting requirement of section 214(d) of the Act. 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 I-129F petition on the beneficiary's behalf so that a new two-year period in which the parties are required to have met 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.