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

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
WAC 04 030 51437

MAY 17 2005

IN RE: Petitioner: [redacted]
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:

[redacted]

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, 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 within two years before the date of filing the petition, as required by section 214(d) of the Act, and that the petitioner had not established that compliance with the meeting requirement would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated June 11, 2004.

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 Citizenship and Immigration Services on November 13, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 13, 2001 and ended on November 13, 2003.

In response to the director's Notice of Intent to Deny, the petitioner submitted letters from the petitioner's parents and a letter from a professor in the Departments of Humanities and World Languages and Cultures at the California State University at San Bernardino.

On appeal, counsel submits a brief, dated July 12, 2004; a letter from a consular attaché of Pakistan, dated July 2, 2004 and a rebuttal letter from Professor Dany Doueiri, Ph.D., of the Departments of Humanities and World Languages and Cultures at the California State University at San Bernardino, dated June 28, 2004.

The AAO acknowledges counsel's assertion that the petitioner and the beneficiary are unable to meet owing to their adherence to the cultural custom of arranged marriages. *Brief from Peter L. Ashman, Esq.*, dated July 12, 2004. In support of this assertion, counsel submits a letter from a consular attaché of Pakistan and a professor of Humanities and World Languages and Cultures. The AAO notes that the submitted letters do not state that the petitioner and the beneficiary are prohibited from meeting. The letters indicate that it is customary for parents to arrange the marriages of their children and that, in Middle Eastern and Southeast Asian countries, it is acceptable, lawful and in full compliance with local customs for the couple not to meet prior to the wedding day. *See Letter from Muhammad Bashir, Consular Attaché*, dated July 2, 2004 ("It is also customary in some arranged marriages that the individuals do not meet each other prior to their actually getting married."). *See also Letter from Dany Doueiri, Ph.D.*

The record fails to establish that a meeting between the petitioner and the beneficiary would offend the custom of arranged marriage. The AAO notes that the petitioner's mother indicates that her family's culture believes "that Marriage [sic] by negotiation is ideal." *Letter from Muzaffar Haleem*, dated May 14, 2004. A meeting between the petitioner and the beneficiary would not supplant arrangement as described by the record; it would occur in addition to and as part of the culmination of those arrangements. The AAO notes that Citizenship and Immigration Services 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.

The AAO acknowledges the assertion by [redacted] Ph.D. that the custom of arranged marriage is not solely a religious custom, but "is carried out by individuals ***ACROSS THE RELIGIOUS***, social, economic, and educational spectrums." *Letter from Dany Doueiri, Ph.D.* (emphasis in original). However, the record fails to demonstrate that the custom followed by the petitioner and the beneficiary and their families would be offended by a meeting in order to comply with the regulations of the country to which the beneficiary seeks to emigrate.

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.