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

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JUN 28 2006

EAC 06 007 51199

IN RE: Petitioner:
Beneficiary: [redacted]

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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting 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 Morocco, 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 acting director denied the petition after determining that the petitioner and beneficiary had not personally met within the two-year period preceding the filing of the petition, as required by section 214(d) of the Act. Further, the acting director found that the record failed to establish a basis on which to exempt the petitioner from this meeting requirement. *Decision of the Acting Director*, dated December 14, 2005.

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 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 (CIS) on October 11, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 11, 2003 and ended on October 11, 2005.

At the time of filing, the petitioner indicated that he had not previously met the beneficiary[1], that his marriage was being arranged by his and the beneficiary's families. In response to the director's request for evidence, the petitioner submitted a signed statement in which he noted that his custom and religion allowed for arranged marriages. He provided photographs of his and the beneficiary's engagement party attended by members of his family.

On appeal, petitioner states that his job responsibilities prevent him from traveling to Morocco to marry the beneficiary. He requests that he be allowed to present his case in oral argument.

The record before the AAO does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d). Instead, he asks that he be exempted from the requirement under the regulation at 8 C.F.R. § 214.2(k)(2). The petitioner has asserted that he should be exempted from the meeting requirement for two reasons – his business responsibilities prevent him from traveling to meet the beneficiary and his religion and custom allow for an arranged marriage. Neither reason, however, offers a basis for exemption.

On appeal, the petitioner states that he cannot leave his business to travel to Morocco. While the AAO notes his concerns, the difficulties of coordinating personal commitments, including business obligations, with overseas travel are faced by many individuals who wish to file Form I-129s on behalf of their fiancées. Accordingly, the petitioner's need to meet his business commitments does not establish that compliance with the meeting requirement would have posed an extreme hardship for him, the first ground under which a petitioner may be exempted from the meeting requirement at 214(d) of the Act, 8 U.S.C. § 1184(d).

Further, section 214(d) of the Act does not require that a petitioner travel to the beneficiary's country of residence, only that the petitioner and beneficiary meet during the two-year period immediately preceding the filing of the Form I-129F. The meeting requirement in the instant case could also have been satisfied by the beneficiary traveling to the United States or to a country near the United States to meet the petitioner, thus eliminating or minimizing any negative effects on his business. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary considered or explored options for a meeting beyond the petitioner traveling to The Philippines. For this reason as well, the petitioner's business commitments do not exempt him from compliance with the meeting requirement.

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[1] On appeal, however, the petitioner indicates that he met the beneficiary approximately ten years ago, the last time he visited Morocco.

The petitioner has also stated that his religion and custom do not require him to meet the beneficiary prior to their wedding. However, the fact that the petitioner's religious customs do not require him to meet the beneficiary in order to marry her does not satisfy the second exemption ground at 8 C.F.R. § 214.2(k)(2), which releases a petitioner from compliance with the meeting requirement only when a meeting with the beneficiary would violate the customs of his or her culture or social practice. The petitioner has not contended, nor does the record establish, that his or the beneficiary's religious customs prevented their meeting during the specified period. Accordingly, the petitioner has not demonstrated his eligibility under either of the exemption grounds at 8 C.F.R. § 214.2(k)(2) and the appeal will be dismissed.

On appeal, the petitioner requests the opportunity to make an oral argument regarding the issues in this case. Regulation, however, requires the requesting party to explain in writing why an oral argument is necessary. Further, CIS, which has the sole authority to grant or deny a request for oral argument, will grant such argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b). In this instance, the petitioner has identified no such factors or issues, nor offered any specific reasons why oral argument should be held. The AAO finds the written record of proceedings to fully represent the facts and issues in this case and, consequently, denies the request for oral argument

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F petition on her behalf so that a new two-year period during which the parties are required to have met will apply.

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.