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

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U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: DEC 20 2007

WAC 07 038 51300

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 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, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO).[1] 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 Afghanistan, 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. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director,* dated May 22, 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

[1] The AAO notes that on the Form I-290B, Notice of Appeal or Motion, the petitioner checked the box that she was filing an appeal, but stated that she was requesting a motion to reopen or reconsider. As the petitioner checked the box specifying an appeal, the AAO finds it has jurisdiction in this matter.

> 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 December 7, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 7, 2004 and ended on December 7, 2006.

At the time of filing, the petitioner indicated on the Form I-129F that she and the beneficiary had not met during the specified period. However, in a letter accompanying the Form I-129F, the petitioner stated that she had visited Afghanistan for eight weeks, from June 10, 2006 until August 5, 2006. *Letter form petitioner*, dated November 20, 2006. No supporting documentary evidence of this visit was provided in support of the petitioner's claim. 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 a request for evidence, the petitioner submitted copies of her certificate of citizenship and the identification page of her United States passport, but again failed to submit documentary evidence showing that she and the beneficiary had met during the two-year period immediately preceding the filing of the Form I-129F.

On appeal, the petitioner resubmits copies of her certificate of citizenship and the identification page of her United States passport.

While the AAO acknowledges the petitioner's statement regarding her travel to Afghanistan in 2006, it notes that the petitioner has not submitted documentary evidence such as airline tickets, boarding passes, or entry and exit stamps in her passport to support her assertions. Going on record without supporting documentary evidence will not meet the burden of proof of this proceeding. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Additionally, at no point has the petitioner asserted that she met with the beneficiary during her visit to Afghanistan. The petitioner states that beneficiary is deaf and that she is also hard of hearing. *See letter from the petitioner*, dated November 20, 2006. The AAO notes that the record does not include any documentation from a licensed health practitioner confirming these health conditions, nor does the record explain whether or how these health conditions relate to the petitioner's or beneficiary's ability to travel.

The AAO does not find that the petitioner has offered evidence to establish that she has complied with the meeting requirement of section 214(d) of the Act or that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for her or 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. Once the petitioner can establish that she has met the beneficiary, she may file a new Form I-129F petition on the beneficiary's behalf consistent with statutory requirements.

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.