U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: NOV 17 2009

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
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). 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 Armenia, as the fiancé(e) of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the record contains no evidence that the petitioner and the beneficiary have personally met within the last two years or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner provides a psychiatric report dated May 27, 2009, from [redacted]

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

> An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

> [s]hall 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 U.S. Citizenship and Immigration Services (USCIS) on November 14, 2008. Therefore, the petitioner and the beneficiary were required to have met in person between November 14, 2006 and November 14, 2008.

When he filed the petition, the petitioner responded "No" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two years before the filing of the petition. In an undated declaration, the petitioner indicated that he and the beneficiary had never met in person because of the following reasons: "it would seem inappropriate and disrespectful to [the beneficiary] and her family" because of Armenian social and cultural traditions and norms; and traveling to Armenia would be a "great financial hardship" to the petitioner's family, as the petitioner and his sister work to support their parents.

In response to the director's February 25, 2009 Notice of Intent to Deny (NOID), the petitioner submitted a personal letter dated March 26, 2009, stating that his medical condition is the "biggest obstacle" between him and the beneficiary. As supporting evidence, the petitioner submitted a letter from dated March 19, 2008, recommending that the beneficiary not travel in an airplane "at this time ecause of the severity of his "Panic Disorder" symptoms.

The director denied the petition because the petitioner failed to establish that he and the beneficiary had met, as required under section 214(d) of the Act, and that he qualified for an exemption from this meeting requirement, pursuant to 8 C.F.R. § 214.2(k)(2). The director found that the letter from [redacted] did not provide a history of the petitioner's medical condition, and that the petitioner did not mention his medical problems in his undated declaration submitted at the time of filing.

On appeal, the petitioner provides a psychiatric report dated May 27, 2009, from [redacted] who states that the petitioner was evaluated on December 9, 2008, and "was followed regularly for medication management and psychotherapy." [redacted] states that the petitioner reported the following: that he had an anxiety problem since childhood; that he had a few psychotherapy sessions in 1994; and that "[a]s the time for traveling to Armenia came close . . . [his] anxiety symptoms got worse and soon he started having full blown panic attacks." [redacted] concludes that the petitioner meets the criteria for "Panic Disorder with agoraphobia and Generalized Anxiety Disorder" and that "Generalized Anxiety, Panic Disorder symptoms, Social shyness and limited social experiences make it difficult for this young man to travel long distance."

While we do not question the expertise of the petitioner's first visit with [redacted] did not occur until after the filing of the instant petition. Moreover, the petitioner did not mention any medical condition in his undated declaration submitted at the time of filing. As discussed above, the petitioner indicated that he and the beneficiary had never met in person because of Armenian social and cultural traditions and norms, and because of financial hardship. Although the director mentioned this latter issue in his denial, the petitioner does not address it on appeal. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The petitioner also has not presented any credible evidence that compliance with the in-person meeting requirement

would violate Armenian social and cultural traditions and norms, or cause his family to suffer financial hardship. In view of the foregoing, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between him and the beneficiary. Accordingly, the appeal is dismissed. The petition must be denied.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should ensure that he has documentary evidence of having met the beneficiary in person within the two years before the filing of the petition, or sufficient evidence to establish that the requirement should be waived. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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. The petition is denied.