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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

b6

[redacted]

Date: APR 18 2011 Office: VERMONT SERVICE CENTER FILE: [redacted]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Pakistan, 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 personally met within the two-year period immediately preceding the filing of the petition or that the petitioner qualified for a waiver of that requirement. On appeal, the petitioner submits additional evidence.

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

> Subject to subsections (d) and (p) of section 214, an alien who -
>
> (i) 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 admission.

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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 March 30, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between March 30, 2008 and March 30, 2010.

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-year period immediately preceding the filing of the petition. The petitioner stated, in part, that he and the beneficiary have not personally met because of the following reasons: 1) he could not leave the country because he was being considered for a job with the Department of Homeland Security; 2) his and the beneficiary's culture does not permit them to meet prior to marriage; and 3) war is raging in the area where the beneficiary is from.

On September 16, 2010, the director issued a request for evidence (RFE), requesting that the petitioner submit evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or that he qualified for a waiver of that requirement.

In response to the director's RFE, the petitioner submitted additional evidence, including a personal letter in which he stated, in part, that he decided not to go to Pakistan because he would have been the target of extremists who kill American citizens because they are considered traitors, and thus his mother (a U.S. citizen) went to Pakistan to officiate over the engagement ceremony.

The director denied the petition because the petitioner failed to establish that he and the beneficiary had met, as required under section 214(d)(1) of the Act, or that he qualified for an exemption from this meeting requirement, pursuant to 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner states, in part, that he is submitting a statement from a well-respected imam from the beneficiary's community as evidence that the beneficiary's culture prohibits couples from meeting prior to the official marriage ceremony. The petitioner also explains that it was safe for his mother to travel to Pakistan because females primarily stay at home and thus are not in danger, but young males, like himself, are in danger because they are believed to be workers for the U.S. government. The petitioner states that he would be considered a spy because he works for the State of New York, and that, because he has assisted USICE (U.S. Immigration and Customs Enforcement) in deporting aliens, he has had several threats made against him.

The petitioner indicates that he and the beneficiary are seeking to marry according to Muslim tradition. It is noted that the photocopy of the imam's statement submitted on appeal is not legible and thus its meaning is unclear. A review of the evidence in its entirety, however, does not find that compliance with the meeting requirement would violate strict and long-established customs of the foreign culture or social practice of the petitioner and the beneficiary. The AAO notes that USCIS 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.

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 violate strict and long-established customs of the foreign culture or social practice of the petitioner and the beneficiary. The AAO also acknowledges the petitioner's safety concerns regarding travel to Pakistan. The AAO notes that although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner or the beneficiary to travel to a specific country in order to comply with this meeting requirement. The record does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Pakistan, including, but not limited to, both the petitioner and the beneficiary traveling to a third country. Moreover, the time commitment required for travel to a foreign country is a common requirement to those filing the Form I-129F petition and does not constitute extreme hardship to the petitioner. 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, and the petitioner has not presented any evidence to show that in-person meeting with his fiancée would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Accordingly, the appeal is dismissed. The petition must be denied.

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.