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U.S. Citizenship
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Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 0 5 2005
WAC 04 032 51359

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: 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, 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 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 petitioner had not established that she and the beneficiary had personally met within the two-year period immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. Further, the director found that the petitioner had failed to establish that meeting as required would violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated October 8, 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 17, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 17, 2001 and ended on November 17, 2003.

At the time of filing, the petitioner indicated that she had not previously met the beneficiary because her religion forbade a meeting with him prior to their wedding. Therefore, the evidence of record dos not establish that the petitioner complied with the meeting requirement of section 214(d) of the Act.

In response to the director's request for evidence, the petitioner stated that a meeting with her fiancé prior to their wedding would violate strict and long-established Afghan cultural and social practices. She submitted a letter from an individual claiming to be an expert on the religious, cultural and social practices of the Pashtoon culture of Pakistan and Afghanistan and to be affiliated with the Islamic Center of Stockton. This individual stated that a meeting between the petitioner and beneficiary would violate Afghan cultural and social practices, indicating that "almost all Afghan couples do not meet each other prior to their wedding day." Alternatively, the petitioner asked that she be exempted from the meeting requirement because traveling to a highly-insecure Afghanistan would have imposed an extreme hardship on her.

On appeal, the petitioner again contends that compliance with the meeting requirement is precluded by Afghan cultural rules. She submits an Internet article on conditions for women in Afghanistan in support of her position. However, she also states that when her school semester ends in the summer of 2005, she plans on visiting the beneficiary so that she can satisfy the meeting requirement of 214(d) of the Act.

The petitioner's previous statements indicating that a meeting with the beneficiary was prohibited by strict and long-established Afghan cultural and social practices and the statements made by the individual claiming association with the Islamic Center of Stockton are contradicted by her stated intention to travel to meet the beneficiary during the summer of 2005. However, the petitioner has offered no evidence that would explain why the cultural and social practices that prohibited a meeting with the beneficiary during the two-year period immediately preceding her filing of the Form I-129F no longer prevent her from traveling to visit him. As a result, the AAO finds the record of evidence to be insufficient to establish that compliance with the meeting requirement would have violated the customs of the beneficiary's culture or social practice, one of the two bases on which CIS may grant an exemption from that requirement. 8 C.F.R. § 214.2(k)(2). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988).

The AAO also finds that the petitioner has failed to establish that compliance with the meeting requirement would have imposed an extreme hardship on her, the other basis on which exemptions of the meeting requirement are granted under 8 C.F.R. § 214.2(k)(1). In response to the director's request for evidence, the petitioner stated that

traveling to Afghanistan to meet the beneficiary during the specified time period was too dangerous and would have constituted an extreme hardship for her. The AAO agrees that U.S. citizen travel to Afghanistan is inadvisable, but does not find that the security concerns that precluded the petitioner's travel to Afghanistan form the basis for a finding of extreme hardship.

Although section 214(d) of the Act requires that the petitioner and beneficiary meet, it does not require the petitioner to travel to the beneficiary's home country. Although the petitioner previously stated that Afghan culture and social practice precluded a meeting with the beneficiary, her statements on appeal regarding her plan to visit the beneficiary suggest that such a meeting might have occurred during the two-year period that preceding her filing of the Form I-129F. However, the record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to Afghanistan, including, but not limited to, the beneficiary traveling to meet the petitioner in the United States. Therefore, the AAO does not find the record to establish that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner.

Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of 214(d) of the Act. Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Should the petitioner and beneficiary meet, the petitioner may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year period in 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.