

prevented clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY
prevented clearly unwarranted
invasion of personal privacy

DG



FILE: [Redacted] WAC 04 081 53131

Office: CALIFORNIA SERVICE CENTER

Date: AUG 05 2005

IN RE: Petitioner: [Redacted]
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.

[Handwritten signature]

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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Iran, 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 failed to submit all of the required documentation and that the record failed to establish that the petitioner and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated November 12, 2004.

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 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 January 29, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 29, 2002 and ended on January 29, 2004.

At the time of filing, the petitioner indicated that she had previously met the beneficiary but did not state whether that meeting had occurred during the two years immediately preceding her filing of the Form I-129F. In response to the director's request for evidence, she submitted a statement indicating that she had met the beneficiary in November 2003 and a copy of a travel agency itinerary for a November 2003 trip to Iran. The director found this evidence insufficient to establish a meeting between the petitioner and beneficiary during the January 29, 2002 to January 29, 2004 time period. The petitioner also failed to respond to the director's request for a completed Biographic Information sheet, Form G-325A.

On appeal, the petitioner again states that she met the beneficiary in 2003, but also traveled to Iran in August 2004 and spent two weeks with the beneficiary. As proof of this latter meeting, she submits pictures, an airline ticket stub and a travel agency itinerary.

The petitioner has indicated that she met the beneficiary during the two-year period immediately preceding her filing of the Form I-129F and, again, in August 2004. However, she has not submitted the documentary evidence necessary to establish her November 2003 trip to Iran and her August 2004 travel does not meet statutory requirements. A copy of a travel agency itinerary showing the petitioner's November 2003 flight reservations does not establish that the travel indicated actually occurred. The August 2004 trip documented by the beneficiary on appeal does not fall within the two-year period immediately preceding her filing of the Form I-129F as required by section 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. The petitioner may file a new 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. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.