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U.S. Citizenship
and Immigration
Services

D6

FILE:

EAC 04 246 53552

Office: VERMONT SERVICE CENTER

Date: **JAN 18 2006**

IN RE:

Petitioner:

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, Vermont 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 India, 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 and beneficiary had not personally met within two-year period preceding the 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 have constituted an extreme hardship for her or would have violated strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated January 19, 2005.

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 (CIS) on August 30, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 30, 2002 and ended on August 30, 2004.

At the time of filing, the petitioner indicated that she and the beneficiary had not previously met, stating that her marriage to the beneficiary had been arranged by her family, with her consent. She stated that a meeting with the beneficiary during the specified period would have constituted an extreme hardship for her, that seeing the beneficiary before their marriage was prohibited. In response to the director's request for evidence, the petitioner submitted a statement from an imam certifying that it is long-established practice for Muslim brides and grooms in Pakistan and India not to meet prior their weddings, and that marriages are arranged by their families. The imam indicates that a meeting between a man and woman before marriage "is considered against the strict and long-established traditions prevalent in the area, and such meetings would violate the strict and established customs of the Muslim man and woman in Pakistan and India." *Statement of Abdul Hameed, Inman and Director, Darul Huda Corporation*, dated November 17, 2004.

On appeal, the petitioner states that the meeting the beneficiary prior to their marriage would also be contrary to her own family's tradition of arranged marriages. She lists the marriages of her grandparents, parents and uncles and aunts as examples of this tradition.

The statement provided by the imam indicates that there are cultural and traditional, rather than religious, prohibitions against the meeting of Muslim couples in India and Pakistan prior to marriage. An Internet review of Muslim marriage traditions in India, however, finds that while the cultural practices of many Muslim Indian families do not allow engaged couples to meet prior to the day of their marriage, other traditions allow the prospective bride and groom to exchange rings at the *mangni* or engagement ceremony, at which the wedding date is set. This single meeting of the engaged couple appears to align with Islamic law and practice:

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.¹

The AAO notes that the petitioner has stated that her family has a tradition of arranged marriages, where the bride and groom do not meet prior to marriage. However, there is no evidence in the record that establishes such a family tradition or that documents the cultural practices that require it. Without evidence to establish that the petitioner's or the beneficiary's family adhere to Indian cultural practices and traditions that would have prohibited their meeting at an engagement ceremony in the presence of their families, the petitioner has failed to establish that compliance with the meeting requirement of 214(d) of the Act would have constituted

¹ Statement from the Imam Islamic Foundation of North America.

an extreme hardship for her or would have violated the customs of the beneficiary's culture or social practice. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in this proceeding. *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)). Therefore, 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 Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

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.