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U.S. Citizenship  
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Services

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APR 23 2007

FILE:

EAC 06 084 51604

Office: VERMONT SERVICE CENTER

Date:

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 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, Chief  
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 Pakistan, as the fiancée 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. He further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated June 1, 2006.

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 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 27, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 27, 2004 and ended on January 27, 2006.

At the time of filing, the petitioner indicated that he had met the beneficiary at his sister's wedding in December 2001 and they became engaged on January 13, 2002. *Form I-129F*. In response to a request for evidence, the petitioner stated that he visited Pakistan with his parents in December 2004 and returned to the United States in April 2005. *Statement from the petitioner*, dated February 26, 2006. The petitioner went on to state that his parents arranged his engagement verbally with his fiancée who happens to be his first cousin and that his interaction with his fiancée was indirect, occurring through his parents. *Id.* The petitioner also submitted an article entitled "Islam and Society." *See article, "Islam and Society," [www.islamic-council.org/lib/suzan/93-123suzan/93-128-suzan.htm](http://www.islamic-council.org/lib/suzan/93-123suzan/93-128-suzan.htm)*. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner states that he never said he did not meet his fiancée. *Form I-290B*. The petitioner asserts that he met his fiancée in April 2005 when he visited Pakistan. *Id.* He also submitted a photocopy of his passport showing entry stamps into Pakistan and the United States and cell phone bills showing communication with the beneficiary. *See passport of the petitioner; cell phone bill statements*. While the AAO finds that the petitioner was in Pakistan from December 2004 to April 2005, it notes that his assertions on appeal appear to contradict his statement on February 26, 2006 which noted that his parents had arranged his engagement verbally with his fiancée. *Id.* The AAO also notes that the petitioner failed to indicate that he had met his fiancée in April 2005 on his Form I-129F which only stated that he had met the beneficiary in 2001. *Form I-129F*. As the petitioner's statements are inconsistent and the record fails to include additional documentation supporting the meeting of the petitioner and the beneficiary, the AAO does not find that he has complied with the meeting requirement under section 214(d) of the Act. Further, the AAO does not find that the petitioner has offered evidence to establish that compliance with the meeting requirement during the specified period would have constituted an extreme hardship for him or that such a meeting would have violated the customs of the beneficiary's culture or social practice. The AAO notes that the applicant submitted the article "Islam and Society" to establish that pre-marital interaction is forbidden in Islam, however, the article reports only that as a rule husbands and wives do not know one another before marriage because Islam prohibits dating and pre-marital intimacy. The article does not indicate that a meeting between the petitioner and the beneficiary in the presence of their families at the time of their engagement would have violated Islamic tenets or practice. Further, on appeal, the petitioner now contends that he met the beneficiary in April 2005, thereby abandoning his prior assertion. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. Once the petitioner and beneficiary have met, he may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period 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.