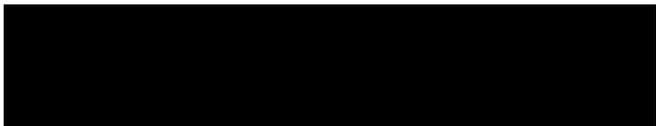


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U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: DEC 13 2007

WAC 06 202 51031

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, 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 India, 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. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated April 3, 2007.

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 June 6, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 6, 2004 and ended on June 6, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met. He stated that he was granted political asylum in the United States in 1995 and cannot travel back to India to meet the beneficiary. *Form I-129F*, dated June 2, 2006. He asserted that in his culture they believe in arranged marriages and his religion does not allow meetings before marriage. He also asserted that it would be financially very difficult for him and the beneficiary to travel to a third country to meet. *Id.* The AAO notes that the record includes the decision by the San Francisco Asylum Office granting the petitioner asylum. *Decision of the Acting Assistant Commissioner for Refugees, Asylum and Parole*, dated March 2, 1995.

On appeal, the petitioner states that in his culture the bride and groom do not meet before marriage. *Petitioner's Letter*, dated May 21, 2007. He states that during the engagement period the elders of the bride and groom's houses visit each other, but the bride and groom are not present at the meeting. The petitioner also states that despite his cultural and religious beliefs, he, as a law abiding citizen of the United States, met the beneficiary in Bangkok, Thailand on May 1, 2007. *Id.*

In support of his assertions regarding his cultural and religious beliefs, the petitioner submits a letter from a head priest of the Sikh religion. This letter states that the Sikh religion strictly prohibits meeting of the bride and groom in person before marriage. *Letter from Head Priest of the Gurudwara Gurparshaad Shaib*, dated October 7, 2006. In addition, the petitioner submits an article from *Seattle Times P.I.*, which states that often in Indian marriages the bride and groom do not know what the other looks like. *Marriage at Your Age, Seattle Times, P.I.*, dated November 14, 2006.

The record also establishes that despite his customary and religious beliefs the petitioner and beneficiary met in Bangkok, Thailand on May 1, 2007. The record includes the petitioner's U.S. passport and the beneficiary's Indian passport with entry and exit stamps for Thailand, the petitioner's plane tickets, receipts from the Radisson Hotel in Bangkok, and pictures of the petitioner and beneficiary in Bangkok.

The AAO finds that by meeting the beneficiary before their marriage, the petitioner has failed to establish that such a meeting during the two-year period preceding the filing of the petition would have violated his or the beneficiary's religious beliefs. Further, as the costs associated with overseas travel are a challenge faced by many individuals who wish to file a Form I-129F, the petitioner's concerns regarding the costs of meeting the beneficiary during the specified period do not constitute extreme hardship. The AAO also notes that the petitioner's meeting with the beneficiary in Thailand fails to support his assertions regarding the financial difficulties that such travel would create for him and the beneficiary.

The petitioner's May 2007 trip to meet the beneficiary occurred after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above – June 6, 2004 to June 6, 2006– and does not satisfy section 214(d) of the Act. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As 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.