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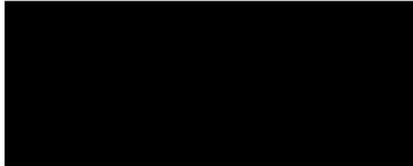
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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FILE: [REDACTED]
MSC 07 037 24919

Office: CALIFORNIA SERVICE CENTER Date: OCT 30 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 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 February 20, 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 November 6, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 6, 2004 and ended on November 6, 2006.

At the time of filing, the petitioner indicated that she and the beneficiary had not met within the two-year period immediately preceding the filing of the Form I-129F. 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 asserts that in her culture, it is customary to have arranged marriages and that she is not allowed to meet her fiancé before they marry. In support of her claim, the petitioner submits a statement by the president of the Sikh Temple of Greater Cincinnati who states that it is not feasible in the Sikh culture for a man and a woman to meet before marriage. *Statement from Surinder Singh, President, Sikh Temple of Greater Cincinnati*, dated March 1, 2007. Because orthodox Sikhs perform marriages that are entirely arranged by the parents of those being wed, as is the case for the petitioner and the beneficiary, in-person meetings are not allowed in order to preserve the purity of the relationship before marriage, though communications via telephone and email are acceptable. *Id.* The petitioner also submits her email correspondence with the beneficiary. *Statement from the petitioner*, dated March 14, 2007; *Email correspondence*. The AAO notes that the names listed on the email correspondence are not those of the petitioner and the beneficiary.

While the AAO acknowledges the statement from the President of the Sikh Temple of Greater Cincinnati that it is not feasible in Sikh culture for a man and woman to meet before marriage, it notes that other sources of information indicate that even when Sikh marriages are arranged, the parents of the engaged couple usually insist on a direct meeting between the pair before the wedding plans are finalized. See www.gurmat.info/sms/smspublications/thesikhmarriageceremony/chapter1/andloris.newman.ac.uk/Students_Websites/~jchohan/sikhwedding.htm. Although [REDACTED] states that he is personally acquainted with the petitioner's family and that they are very religious and devout, and they wish to follow the customs of the traditional arranged marriage, the record contains no statement from the beneficiary's parents indicating that this is the case and that they have prohibited any meeting between the petitioner and the beneficiary. Absent such evidence, the record offers insufficient proof that a meeting between the petitioner and beneficiary during the two-year period immediately preceding her filing of the Form I-129F would have violated Sikh religion or culture. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the

petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, she may file a new Form 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.