

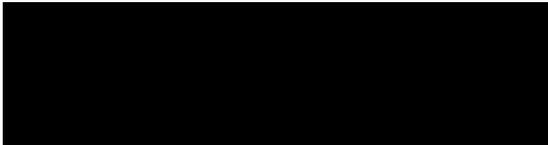
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and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date:

FEB 05 2009

IN RE:

Petitioner:

Beneficiary:



PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

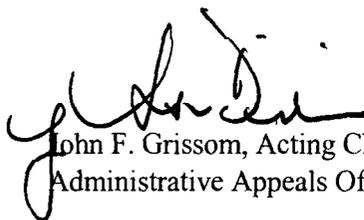
ON BEHALF OF PETITIONER:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom, Acting 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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Sudan, as the fiancé(e) of a United States citizen pursuant to § 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 because the petitioner failed to establish that he met the requirement for an exemption from the meeting requirement based on the beneficiary's foreign culture, social practice, or tribal customs.

On appeal, the petitioner submits a statement and affidavits from two Sudanese natives as supporting documentation.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall 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 U.S. Citizenship and Immigration Services (USCIS) on April 11, 2008. Therefore, the petitioner and beneficiary were required to have met in person sometime between April 11, 2006 and April 11, 2008.

In a July 22, 2008 Request for Evidence (RFE), the director requested, among other items, evidence to establish that the petitioner and beneficiary met in person within the required timeframe or, in the alternative, evidence to establish why the requirement of an in-person meeting should be waived. In response, the petitioner submitted affidavits from the beneficiary, the Imam of a mosque in Sudan, and the chairman of a community center in Sudan. According to these affidavits, engaged couples cannot meet or go out together alone, or travel together until they are officially married, in accordance with the social traditions and customs of the petitioner and the beneficiary.

In denying the petition, the director noted that USCIS does not require that the engaged couple spend time alone or have extensive social interaction prior to their wedding. Rather, a chaperoned introduction or short meeting is acceptable. Citing that the requirement of an in-person meeting between the petitioner and beneficiary had not been met, the director denied the petition.

On appeal, the petitioner states that according to his and the beneficiary's Arakeen tribe's customs, traditions, and culture, it is prohibited for the groom to meet his prospective bride before the marriage contract. The petitioner submits affidavits from two Sudanese natives as supporting documentation; neither affiant, however, specifically states that it is prohibited for the groom to meet his prospective bride before the marriage contract.

The petitioner states that he and the beneficiary are seeking to marry according to the customs, traditions, and culture of the Arakeen tribe. The petitioner, however, has not presented any credible evidence that compliance with the in-person meeting requirement would violate the customs, traditions, and culture of the Arakeen tribe. The petitioner's assertion that, according to his and the beneficiary's Arakeen tribe's customs, traditions, and culture, it is prohibited for the groom to meet his prospective bride before the marriage contract, is noted. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)). Upon review of the record in its entirety, the petition may not be approved.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should ensure that he has documentary evidence of having met the beneficiary in person within the two years before the filing of the petition, or sufficient evidence to establish that the requirement should be waived. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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. The petition is denied.