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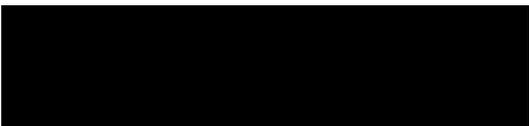
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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DC



FILE:



Office: CALIFORNIA SERVICE CENTER

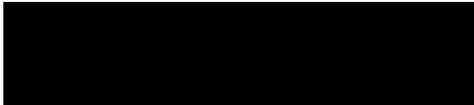
Date:

MAR 16 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)

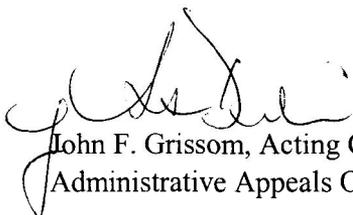
ON BEHALF OF PETITIONER:

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, 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(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 had failed to: (1) establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition; and (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for him. On appeal, the petitioner provides a statement and additional 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 June 26, 2008. Therefore, the petitioner and the beneficiary were required to have met between June 26, 2006 and June 26, 2008.

In response to the director's request for evidence and additional information, the petitioner submitted a letter stating that his marriage to the beneficiary was arranged according to Sikh culture and did not require an in-person meeting for its completion.

On appeal, the petitioner submits the following additional evidence: an undated letter from the president of the Sikh Temple in Fresno, California; affidavits, both dated December 22, 2008, from the beneficiary's father and [REDACTED] and an email message indicating that a photograph of the beneficiary was forwarded to the petitioner.

In his undated letter, the president of the Sikh Temple, [REDACTED], states, in part, as follows:

Sikhs go for the arranged marriages. But the girl and the boy's views are always taken into consideration. In fact they are made to talk and exchange portraits of each other along with their personal views and thoughts by Internet, Phone, or person."

In his December 22, 2008 affidavit, the beneficiary's father states, in part, that photographs of the petitioner and the beneficiary were exchanged and they both consented to their marriage.

In his December 22, 2008 affidavit, [REDACTED] states, in part, that he proposed the beneficiary's name as a suitable girl for the petitioner, and that both families agreed to the proposal.

A review of the above evidence does not find that the petitioner is prohibited from meeting the beneficiary. In fact, the president of the Sikh Temple states that the girl and the boy "are made to talk and exchange portraits of each other along with their personal views and thoughts by Internet, Phone, or person." The beneficiary's father and [REDACTED] also do not provide any information indicating that compliance with the meeting requirement would violate strict and long-established customs of the beneficiary's foreign culture or social practice. In view of the foregoing, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between him and the beneficiary. Accordingly, the appeal is dismissed. The petition must be denied.

The denial of the petition is without prejudice to the filing of a new I-129F Petition on the beneficiary's behalf. 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.



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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.