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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



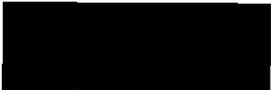
U.S. Citizenship
and Immigration
Services



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Date: **AUG 28 2012**

Office: CALIFORNIA SERVICE CENTER

FILE: 

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)

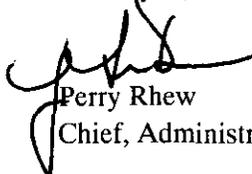
ON BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center (the director), denied the nonimmigrant visa petition (Form I-129F), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

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 establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition, or that meeting her in person would have violated strict and long-established customs of the beneficiary's foreign culture or social practice. *See Director's Decision*, dated April 2, 2012. On appeal, the petitioner submits a Form I-290B, Notice of Appeal; an attachment; and additional evidence.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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, except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

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.

Factual and Procedural History

The petitioner filed the Form I-129F with USCIS on August 8, 2011. Therefore, the petitioner and beneficiary were required to have met between August 8, 2009 and August 8, 2011. In denying the petition, the director noted that the petitioner admitted that he and the beneficiary had not met in person within the two-year period preceding the filing of the petition. The director stated that the record contained a letter from the petitioner stating that he had met the beneficiary through a mutual friend and had no chance to personally meet because it would violate the beneficiary's social culture and long-established customs. The director stated, however, that the petitioner did not submit documentary evidence to establish that a personal meeting between the petitioner and beneficiary would violate strict and long-established customs of the beneficiary's culture or social practice or that such a meeting could not take place while under the supervision of family members.

On the attachment to the Form I-290B, the petitioner states that he is seeking an exemption of the personal meeting requirement under 8 C.F.R. § 214.2(k)(2) due to the traditions and customs of the Hindu religion. He also provides copies of information on Hindu marriages.

Analysis

The record contains a copy of two February 27, 2012 letters from the petitioner, in which he states that he met the beneficiary through a mutual friend and that a personal meeting between himself and the beneficiary would violate the beneficiary's social culture. He states that an arranged marriage in Indian society is seen as an act of love and that he has become verbally engaged to the beneficiary. He states that it will be hard to prove or provide evidence from competent authorities to establish this custom or practice since it is not dictated by law. He states that his culture is complicated and each culture has its own practices. He states that while there are new customs or practices in his country for modern families, his family follows the old customs and will let him marry his fiancée by sending her to the United States. He states that this will give the beneficiary's family security and peace of mind.

In an April 10, 2012 letter from the petitioner, he states that he intends to marry the beneficiary at the [REDACTED] if she is granted a fiancée visa. He states that the Hindu religion requires most marriages in India to be arranged and that Indian families do not permit their daughters to meet their fiancés prior to the marriage. He states that only a few percent of Indians accept western culture. He states that the only way in which he can meet his fiancée is by first marrying her. He states that when his fiancée arrives in the United States she will have to stay with someone other than himself, such as a friend or family member. He states that once they are married the beneficiary is permitted to come to his

house. He states that Indian ceremonies are performed by a religious priest in front of a fire. He states that any Hindu priest will verify his statement. The petitioner also submits copies of documents in regard to [REDACTED] marriage arrangements.

In proceedings for an alien fiancé(e) petition, the petitioner bears the burden of proof to establish eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). While the submitted information indicates generally that traditionally marriages were mostly arranged and that the bride and groom were not permitted to meet, it does not establish that those traditions are currently practiced or that the beneficiary's family adheres to them. Overall, the petitioner's evidence fails to demonstrate that meeting the beneficiary in person during the required time period would have violated her customs or social practices regarding marriage. The petitioner has also failed to establish that an in person meeting would have been a hardship to him.

Beyond the decision of the director, the petitioner has submitted some, but not all, of the required initial evidence. The record still lacks the following documentation: a properly executed Form G-325A for the beneficiary¹; and an original statement from the beneficiary to establish her intent to marry the petitioner.²

Conclusion

Pursuant to 8 C.F.R. 5 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new fiancé(e) petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed. The petition remains denied.

¹ The Form G-325A submitted below for the beneficiary is not signed by her.

² The statement submitted below is a copy and not an original statement from the beneficiary.