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

(b)(6)

[redacted]

Date: JUN 1 1 2013 Office: CALIFORNIA SERVICE CENTER [redacted]

IN RE: Petitioner:
Beneficiary: [redacted]

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.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center (the director), and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained. The petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Afghanistan, 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 because the petitioner had failed to establish that she and the beneficiary met in person within the two years immediately preceding the filing of the petition or that meeting the beneficiary in person would have been a hardship for her. On appeal, the petitioner provides a statement and additional evidence.

Applicable Law

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, 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):

> As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner; or that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social 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 Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on March 20, 2012. Therefore, the petitioner and beneficiary were required to have met between March 20, 2010 and March 20, 2012. On the Form I-129F, the petitioner indicated that she had not met the beneficiary in person within the two-year period preceding the filing of the petition. The petitioner recounted that she first met the beneficiary nearly 25 years ago when she resided in Afghanistan and his cousin wed her sister. She stated that when she later moved to the United States she was suffering from depression, diabetes and Post Traumatic Stress Disorder (PTSD), which were the result of witnessing the Taliban harm her family members. The petitioner stated that because of her diabetes she is not able to work and is receiving Supplemental Security Income. She asserted that for these reasons, she is unable to afford an airline ticket and she cannot travel long distances. The petitioner stated that the beneficiary proposed to her over the telephone and they had two separate engagement parties, one in Pakistan, that was attended by the beneficiary, and one in San Diego, California, which she attended. She noted that is difficult for an Afghan male to obtain a tourist visa to visit the United States or another country.

The petitioner provided, *inter alia*,: a letter, dated February 13, 2012, from her psychiatrist, , of the County of San Diego Health and Human Services Agency, Behavioral Health Division; Department of Veterans Affairs materials on the "Effects of Traumatic Stress after Mass Violence, Terror, or Disaster"; photographs of her engagement ceremony and the beneficiary's engagement ceremony; and two letters, respectively dated June 29, 2010 and February 13, 2012, from the

The first letter from the stated that it acknowledges the cultural practice of engagement between two adult individuals "without proximity." The second letter, from stated that it common cultural practice for individuals to become engaged without a prior meeting.

In her letter, stated that the beneficiary, who has been a patient since October 3, 2003, has been diagnosed with Major Depression Recurrent, Severe, with Psychotic features and Post Traumatic Stress Disorder. She specifically stated that the petitioner suffers from auditory hallucinations, hypersensitivity to sounds and agoraphobia. stated that the petitioner's psychiatric conditions are the result of events she experienced while in Afghanistan under the Taliban regime. She further noted that the petitioner has many physical illnesses, including diabetes mellitus, high blood pressure and gout and she experiences pain with her shoulders and spine. She opined that the petitioner's travel to Afghanistan or Pakistan would be detrimental to the petitioner's health and would not be in her best interest.

On July 25, 2012, the director issued a Request for Evidence (RFE) of, *inter alia*, that the petitioner has met the beneficiary in person within the two years immediately preceding the filing of the petition, or that compliance would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. In response to the RFE, the petitioner resubmitted her prior evidence.

In denying the petition, the director stated that the petitioner has not demonstrated that she is unable to travel abroad to meet the beneficiary in a third country. On appeal, the petitioner asserts that her life would be endangered if she were to return to Afghanistan. She contends that she cannot travel to Afghanistan or the surrounding countries because of her disability and health conditions. She states that the beneficiary resides in a county that is still in a war and he cannot obtain a visa to the United States. The petitioner provides a letter dated October 8, 2012 from who reiterated her prior statements and added that due to the petitioner's current condition, traveling to Afghanistan and the surrounding countries would be a hardship to the petitioner's health and would not be in her best interest.

Analysis

A full review of the record shows that the petitioner has established that meeting the beneficiary would cause her extreme hardship. attested to the petitioner's chronic mental health conditions, including auditory hallucinations, hypersensitivity to sounds and agoraphobia. She stated that the petitioner has been diagnosed with Major Depression Recurrent, Severe, with Psychotic features and Post Traumatic Stress Disorder. also noted that the petitioner has several chronic physical illnesses, including diabetes mellitus, high blood pressure and gout and she experiences pain with her shoulders and spine. There is no requirement that travel be impossible for the petitioner; only that travel results in extreme hardship. Here, the petitioner has established that compliance with the meeting requirement would cause her extreme hardship, considering her debilitating mental health conditions. The relevant evidence also demonstrates that the petitioner merits a favorable exercise of discretion to waive the meeting requirement due to the extreme hardship compliance would cause the petitioner. Accordingly, the petitioner has established that she merits an exemption from the meeting requirement.

Conclusion

Now that the petitioner has met all of the Form I-129F evidentiary requirements, the petition will be approved and the appeal will be sustained. 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 met that burden.

ORDER: The appeal is sustained. The petition is approved.