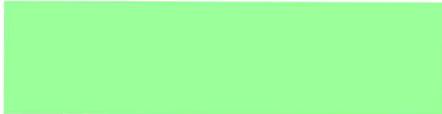


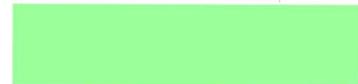


U.S. Citizenship  
and Immigration  
Services

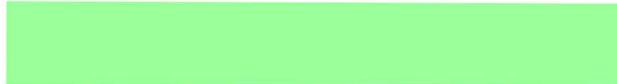
(b)(6)



Date: **MAR 19 2014** Office: CALIFORNIA SERVICE CENTER



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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center (the director), denied the nonimmigrant visa petition, 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 the Republic of Yemen, as the fiancé 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 nonimmigrant visa petition because the petitioner failed to establish that she and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that she is eligible for a waiver of the meeting requirement. On appeal, the petitioner submits 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. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. 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 K-1 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. Failure to establish that

the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

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 fiancé(e) petition with U.S. Citizenship and Immigration Services on May 2, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between May 2, 2010 and May 2, 2012. When she filed the petition, the petitioner stated that she had not met the beneficiary within the requisite period. In the Request for Evidence (RFE), the director informed the petitioner that she must either submit evidence of having met the beneficiary in person during the required time period or request a waiver of the meeting requirement. In response, the petitioner submitted affidavits from herself, her father, and the Imam of her mosque. The petitioner and her father stated in their affidavits that they were afraid their physical safety would be in jeopardy if they returned to Yemen. The petitioner also asserted that the Islamic customs and social practices of the petitioner and the beneficiary prohibited them being together and from having their picture taken together during the requisite period, and she referred to information from *Wikipedia* about traditional Arabic marriages to support her assertion.<sup>1</sup> The Imam stated that the petitioner and beneficiary have known each other since childhood and that it is customary for parents to arrange the marriage of their adult children. The Imam stated that in April 2008 the petitioner was promised to marry the beneficiary and that their custom permits dating if parents are present, and does not allow any picture taking. The Imam also stated that Yemen is not safe country and having the beneficiary's wedding there would have been a hardship. The director found the petitioner's response insufficient and denied the petition. On the notice of appeal the petitioner asserts that compliance with the meeting requirement would have violated the established customs of their Islamic culture and religion, and she submits a document from the Directorate General of Notarization of the Ministry of Justice, Republic of Yemen, in support of her assertion.

#### *Analysis*

As stated at section 214(d)(1) of the Act, the relevant time period in which the personal meeting between the petitioner and the beneficiary must occur is within the two-year period before the filing date of the petition. The petitioner submitted a document from the Directorate General of Notarization to demonstrate that it was not possible to have met the beneficiary prior to marriage, but the Directorate

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<sup>1</sup> *Wikipedia* has a disclaimer that states that it is an online open-content collaborative encyclopedia and cannot guarantee the validity of the information that is provided. See [http://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer), accessed on June 18, 2013.

General of Notarization only stated it was the “legal views only from [the petitioner]” that it was against their Islamic beliefs and Yemeni customs for the petitioner and the beneficiary to meet in person, have their photograph taken together, or correspond in any manner prior to marriage. The Imam and the petitioner’s family state that it would have been dangerous to have met the beneficiary in Yemen. The Act requires only that a personal meeting between the petitioner and beneficiary take place within the two-year period before the petition is filed, and does not require any specific location for the personal meeting. Section 214(d)(1) of the Act. The petitioner has not demonstrated that meeting the beneficiary in a third country was not a viable option during the requisite period, and has therefore failed to establish that she would have suffered hardship or violated cultural practices if she complied with the meeting requirement.

*Conclusion*

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the required time period and the petitioner is not exempt from the requirement. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is dismissed. The denial of this petition is without prejudice to the filing of a new petition should the petitioner and the beneficiary meet in person in the future. 8 C.F.R. § 214.2(k)(2).

In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.