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U.S. Citizenship  
and Immigration  
Services

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FILE:

WAC 07 054 52314

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 30 2007**

IN RE:

Petitioner:

Beneficiary:

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

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision 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.

Robert P. Wieman, 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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Pakistan, as the fiancée 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 after determining that the record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated March 30, 2007.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), 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 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 Citizenship and Immigration Services on December 14, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 14, 2004 and ended on December 14, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had met in Pakistan, but not within the two-year period immediately preceding the filing of the Form I-129F. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

In response to the Director's request for evidence, the petitioner submitted a letter from an Imam; his student enrollment history; Forms G-325A for himself and the beneficiary; a statement jointly signed by the beneficiary, declaring their intent to marry within 90 days of her arrival in the United States; a copy of his naturalization certificate; and a copy of his U.S. passport. The letter from the Imam states that the petitioner's marriage to the beneficiary was arranged by family members, and as is the custom of the area, they are not allowed to meet or see one another until they are actually married. *Letter from [REDACTED] Imam, Community Mosque of Winston-Salem, dated March 18, 2007.*

On appeal, counsel submits a brief stating that under the customs and traditions of the Islamic faith, the petitioner and the beneficiary are not allowed to meet or see one another until they are actually married. *Attorney's brief.* According to counsel, such customs and traditions are very common in the beneficiary's region of Rawalpindi, Pakistan. *Id.* Counsel further asserts that if the beneficiary is allowed to visit the United States, she and the petitioner would be able to see one another under the American tradition. *Id.*

The AAO acknowledges the [REDACTED] statements regarding the prohibition against the meeting of an engaged Muslim couple prior to their marriage. It notes however, that information provided by the Imam Islamic Foundation of North America indicates:

[T]hat according to Islamic Law and practices, any adult Muslim boy or girl is not allowed to date or meet his/her partner before marriage. However, for finalizing the decision of marriage, it is permissible for both to see each other in the presence of their families.

The jointly-signed statement from the petitioner and beneficiary indicates they became engaged on March 17, 2006, a date that falls within the specified period. In light of the information provided by the Imam Islamic Foundation of North America, the AAO finds that the petitioner and beneficiary could have met in the

presence of their families in order to finalize their decision to marry, thus complying with the meeting requirement of section 214(d) of the Act while adhering to Islamic custom. The submitted letter from the Imam does not indicate that such a meeting would have been prohibited. The submitted letter from the Imam does not indicate such a meeting with the beneficiary would have been prohibited. Furthermore, section 214(d) of the Act requires only that the petitioner and beneficiary meet, not that the petitioner travel to the beneficiary's home country. Counsel states on appeal that the petitioner and the beneficiary could meet in the United States under the American tradition. *Attorney's brief*. There is nothing in the record to show that the petitioner explored a meeting with the beneficiary in the United States, or that the petitioner and beneficiary attempted meeting in another country outside Pakistan. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find the record to establish that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner or would have violated strict and long-established customs of the beneficiary's foreign culture or social practice.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year meeting period will apply.

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.