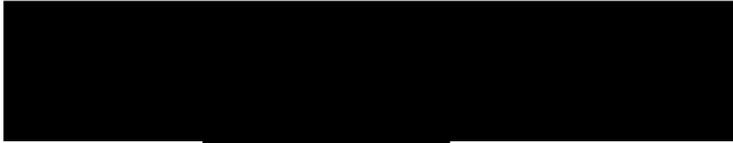




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy

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FILE:



Office: VERMONT SERVICE CENTER

Date:

**FEB 01 2008**

EAC 07 057 50865

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:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont 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 Iraq, 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 petitioner had not met the beneficiary within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, or that such a meeting would have resulted in extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated March 13, 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 21, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 21, 2004 and ended on December 21, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had met, but not during the two-year time period immediately preceding the filing of the petition. *Form I-129*, dated December 16, 2006. The applicant submitted an affidavit sworn to in 2002 describing the persecution he faced in Iraq and how he obtained refugee status from the then Immigration and Naturalization Service. *Affidavit from Petitioner*, dated February 7, 2002. The applicant also submitted a statement with the Form I-129, which states that he could not meet his fiancée within the required time period because their tradition and culture prevent a woman from meeting her fiancé in public before marriage. *Letter from Petitioner*, dated December 16, 2006. He also stated that it is unsafe for them to meet in Baghdad because the beneficiary is a target because of her academic position at Al-Mustansiria University and because she is about to marry an Iraqi-American. *Id.*

In response to the director's request for evidence, the petitioner submitted a second letter explaining why he and the beneficiary had not met during the required two-year time period preceding the filing of his Form I-129F. He states that it is unsafe for him to be in Baghdad because of insurgents and extremist groups. *Letter from Petitioner*, dated January 20, 2007. He also states that he is known as a journalist who wrote and still writes about violence in Iraq. Moreover, he asserts that his fiancée would face difficulties in meeting him in a neighboring country because she cannot travel abroad by herself and has no family member who is able to travel with her. He also states that traveling from Baghdad to Amman, Jordan is dangerous with many people getting killed or kidnapped. *Id.*

On appeal, the petitioner submits a letter explaining that he will be meeting the beneficiary in Baghdad during the last two weeks of May 2007 despite the dangerous situation. *Letter from Petitioner*, dated April 4, 2007. On June 15, 2007, the petitioner submitted copies of his passport showing an entry into Iraq on May 23, 2007 and an exit on May 29, 2007. In addition, he submitted photographs of himself and beneficiary together.

The petitioner's May 2007 trip to meet the beneficiary occurred four months after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above and does not satisfy section 214(d) of the Act. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new 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.