



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: [Redacted]
LIN 99 218 52311

Office: Nebraska Service Center

Date:

AUG 29 2000

IN RE: Petitioner:
Beneficiary:



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

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a 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 petitioner had not established that he and the beneficiary personally met within two years prior to the date of filing the petition, nor had he established that compliance with the requirement would result in extreme hardship to himself.

On appeal, the petitioner states that he and the beneficiary met approximately four years ago, but now that they agreed to get married, they are no longer allowed to meet one another in accordance with their religious practices.

Section 101(a)(15)(K) of the Act defines a nonimmigrant in this category 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 admission, and the minor children of such fiancée or fiancé accompanying him or following to join him.

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 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 Attorney General in his discretion may waive the requirement that the parties have previously met in person....

8 C.F.R. 214.2(k)(2) provides that as a matter of discretion, the director may exempt the petitioner from the requirement that the parties have previously met 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 petition was filed with the Service on July 22, 1999. Therefore, the petitioner and the beneficiary must have met in person between July 23, 1997 and July 22, 1999.

The petitioner claims that he met the beneficiary four years ago. Therefore, he has not established that he and the beneficiary met within the required period. The petitioner submits on appeal a statement from an Islamic Scholar stating that in their Islamic belief, "when choosing a girl it is permissible to see and discuss matters with supervision of parents or guardian. After the arrangement for the two to get married is made it is not allowed for them to meet until they get married." This statement, however, is insufficient to establish that personal meeting of the petitioner and the beneficiary is forbidden in accordance with Islamic law.

The Service solicited an opinion from the Library of Congress as to whether any meeting between the bride and groom is strictly forbidden before the wedding ceremony. The Library of Congress indicates that:

....the engagement or betrothal....does not create a legally binding contract for either side. It is merely a promise. An action for breach of the promise, therefore, cannot lie under the Mahommedan law. We are not aware of any writer on Islamic law who has stated that the parties who are engaged to be married are prohibited from seeing or meeting each other. For the stated reasons, neither the Islamic personal law nor the state statutory law has made any provision dealing with the subject....

The petitioner has failed to establish that he and the beneficiary have met personally as required, pursuant to section 214(d) of the Act. Nor has the petitioner established that he warrants a discretionary waiver of the requirement pursuant to 8 C.F.R. 214.2(k)(2).

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. Accordingly, the appeal will be dismissed. This decision, however, is without prejudice to the filing of a new petition (Form I-129F) once the petitioner and the beneficiary have met in person.

ORDER: The appeal is dismissed.