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U.S. Department of Justice

Immigration and Naturalization Service

Identification data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

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

File: [redacted] Office: VERMONT SERVICE CENTER Date: 11 MAR 2002

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont 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 fiance(e) 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 and the beneficiary had not personally met within two years before the date of filing the petition as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner or unique circumstances.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

> An alien who is the fiancee or fiance 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 fiance(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 bonafide 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...[emphasis added]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on June 2, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on June 2, 1999 and ended on June 2, 2001.

With the initial filing of the petition, the petitioner indicated that she had not met the beneficiary in person because she uses a wheelchair and that accessibility to wheelchairs in Pakistan is poor.

On appeal, the petitioner submits a letter stating that she is again requesting a hardship waiver because of the inconvenience she will face in travelling to meet the beneficiary and because she fears for her safety in view of the current situation in that part of the world. In addition, the petitioner notes on appeal that

although it is not a violation of her religious laws for her and the beneficiary to meet prior to marriage, arranged marriages are customary and traditional in her culture.

Pursuant to 8 C.F.R. 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The regulation at section 214.2(k)(2) does not define what may constitute extreme hardship to a 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. Examples of such circumstances may include, but are not limited to, serious medical conditions or hazards to U.S. citizens to travel to certain countries.

In the instant case, the petitioner's stated reasons for needing a waiver are not persuasive. Further, the petitioner has failed to submit evidence that precludes her from meeting the beneficiary in a third county that provides better access to wheelchair bound individuals and wherein she would feel safer. While the petitioner's desire not to travel because of the inconvenience that her disability imposes is understandable, it is not considered extreme hardship.

In addition, although the petitioner has established that arranged marriages are customary and traditional in the religion of Islam, she has failed to establish that compliance with the in-person meeting requirement would violate strict and long-established customs of the beneficiary's foreign culture or social practices. In fact, the petitioner specifically states that it is not a violation of her religious laws to see her prospective groom before the marriage.

The petitioner has failed to establish that she and the beneficiary have personally met within the time period specified in section 214(d) of the Act, or that extreme hardship or unique circumstances exist to qualify her for a waiver of the statutory requirement. The petitioner has also failed to establish that meeting the beneficiary would violate strict and long-established customs of the beneficiary's foreign culture or social practices.

Pursuant to 8 C.F.R 214.2(k)(2), the denial of this petition is without prejudice. If the petitioner and the beneficiary meet in

person, the petitioner may file a new I-129F petition on behalf of the beneficiary. The petitioner will be required to submit evidence that she and the beneficiary have met within the two-year period that immediately precedes the filing of a new petition. Without the submission of documentary evidence that clearly establishes that the petitioner and the beneficiary have met in person during the requisite two-year period, the petition may not be approved unless the director grants a waiver of that requirement.

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.