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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

[redacted]

FILE: [redacted] Office: Vermont Service Center Date: MAY 09 2002
EAC01 269 52688

IN RE: Petitioner: [redacted]
Beneficiary:

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

IN BEHALF OF APPLICANT: 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

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a native of Pakistan and a naturalized citizen of the United States. The beneficiary is a native and citizen of Pakistan. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior to the date the visa petition was filed. The director also noted that the petitioner had failed to submit evidence that according to Islam a man and a woman are forbidden to have any meetings or relations prior to their marriage. The director denied the petition accordingly.

On appeal, the petitioner requests that he be exempt from the requirement that he and the beneficiary meet within two years prior to the filing of the visa petition. The petitioner states that his 76 year old father lives with him and the father is diabetic with many health problems. The petitioner states that his father had open heart surgery a few years ago, requires regular assistance and cannot be left alone for extended periods of time. The petitioner refers to a letter from the father's physician as proof of that condition. That letter is not present in the record for review.

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 the fiancé(e) of a U.S. citizen who intends to conclude a valid marriage with that citizen within 90 days after entry. Before approving a petition for this classification, the Service must review the information and evidence in the petition and determine that the parties intend to enter into a bona fide marriage.

Under section 214(d) of the Immigration and Nationality Act, 8 U.S.C 1184(d), the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed.

8 C.F.R. 214.2(k)(2), provides that 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) violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In this case, the petitioner has made claims concerning extreme hardship but had failed to provide the evidence for review. The petitioner has also failed to provide evidence that such a meeting between the parties would be a violation of strict and long-established customs.

The burden is on the petitioner to provide satisfactory evidence of the existence of such circumstances. It is concluded the petitioner has not provided adequate reasons why the two-year requirement stipulated by law should be waived.

ORDER: The appeal is dismissed.