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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



**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

File: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 28 2003
(WAC 99 151 52817 relates)

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

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, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. 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 Afghanistan, 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.

8 C.F.R. § 214.2(k)(2) states, in pertinent part:

Requirement that petitioner and beneficiary have met.
The petitioner shall establish to the satisfaction of the director that the petitioner and beneficiary have met in person within the two years immediately preceding the filing of the petition.

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on May 11, 1999. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 11, 1997 and ended on May 11, 1999.

In response to Question #19 on the Form I-129F, the petitioner indicated that he and the beneficiary had personally met. In response to the director's request for additional information and evidence of the date and place of the parties' last meeting, and a Biographic Information sheet (Form G-325A) for the beneficiary, the petitioner submitted a letter stating that he and the beneficiary were neighbors and childhood friends and have kept in close contact via mail and telephone. He stated that war in Afghanistan has prevented him from traveling there, but that his family held an engagement party for him and the beneficiary. In support of the letter, the petitioner submitted a video of the engagement party. The petitioner failed to submit a completed Form G-325A for the beneficiary.

On appeal, the petitioner submits a letter stating that due to obligations in the United States, he is unable to leave the country. He states that his work is demanding because he is self-employed and works alone. He further asserts that his income helps support his family in the United States and that his religious custom requires him to marry the beneficiary despite his circumstances.

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 reasons for not having submitted a Form G-325A for the beneficiary, and for not having met the beneficiary within the required time period are not persuasive. The time and expense involved in traveling to a foreign country are normal difficulties encountered in complying with the requirement and are not considered extreme hardship. In addition, while the petitioner states that he does not wish to travel to Afghanistan, he and the beneficiary are not precluded from traveling to a third country to fulfill the in-person meeting requirement. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. 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.