U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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Washington, D.C. 20536

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FILE: [redacted] Office: California Service Center Date: JAN 8 2003

IN RE: Petitioner: [redacted]
Beneficiary:

APPLICATION: 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 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.

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 that 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 that 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 Acting Director, California Service Center, and is before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The petitioner is a native of Afghanistan and naturalized citizen of the United States. The beneficiary is a native and citizen of Afghanistan. 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 October 9, 2001, filing date of the visa petition.

On appeal, the petitioner submits a letter from the President of the Afghan Association of the East Bay in which he reaffirms that, according to Afghan tradition, engagements are arranged by the couples' parents, photos are exchanged when one of the parties lives abroad, and physical contact is not allowed until they are married.

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.

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), 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 burden is on the petitioner to provide satisfactory evidence that extreme hardship would be imposed on him to comply with the two-years requirement. In this case, the petitioner has established that, according to Afghan tradition, young men and women do not personally meet prior to their marriage. Therefore, the appeal will be sustained. The director's decision will be withdrawn, and the petition will be approved.

ORDER: The appeal is sustained. The acting director's decision is withdrawn, and the petition is approved.