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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

File: [redacted] Office: VERMONT SERVICE CENTER Date: FEB 28 2003
(EAC 02 032 55412 relates)

IN RE: Petitioner:
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 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 Director, Vermont 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 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).

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 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 . . . [emphasis added].

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on October 4, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on October 4, 1999 and ended on October 4, 2001.

With the initial filing of the petition, the petitioner indicated that she and the beneficiary had never met. In response to the director's request for additional information, the petitioner submitted a letter from [redacted] Imam of the Islamic Center of Connecticut, Inc., dated October 5, 2001, stating that "under Islamic jurisprudence it is permissible that parents arrange marriage on behalf of their daughter with her consent even if she has not met the fiance."

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. The director further found that the petitioner had failed to establish that she warranted a favorable exercise of discretion to waive this statutory requirement.

On appeal, the petitioner states that she fully intends to conclude a valid marriage with the beneficiary when he arrives in the United States with a fiance(e) visa and claims an exemption from the in-person meeting requirement due to cultural, social, and religious practices of the Muslim community. In support of the appeal, she submits a second letter from [redacted] dated February 20, 2002, adding that "[b]efore marriage the fiance can meet the fiancee in person only in the presence of her parents."

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.

In the instant case, the petitioner has not established that she warrants a favorable exercise of discretion to waive the requirement of a personal meeting with the beneficiary during the period that began on October 4, 1999 and ended on October 4, 2001. There is no evidence contained in the record that compliance with the requirement would violate strict and long-established customs of the beneficiary's foreign culture or social practice. The letters of support from the Imam of the Islamic Center of Connecticut, Inc. merely state that Islamic jurisprudence permits arranged marriages and that engaged parties may only meet in the presence of the fiancee's parents prior to marriage.

The petitioner has failed to establish that she and the beneficiary personally met within the time period specified in section 214(d) of the Act, or that to do so would have resulted in extreme hardship to the petitioner or would have violated strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

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.