



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



File: [Redacted] Office: VERMONT SERVICE CENTER Date: FEB 28 2003
(EAC 02 037 50227 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:



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

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 a subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is now before the Associate Commissioner on a motion to reopen. The motion will be granted and the order dismissing the appeal will be affirmed. The petition will be denied.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Afghanistan who is currently residing in 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. The director further found that the petitioner had failed to establish that she warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Act 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 Petition for Alien Fiance(e) (Form I-129F) was filed on November 1, 2001. Therefore, the petitioner and the beneficiary were required to have met in person between November 1, 1999 and November 1, 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 documentation indicating that her engagement to the beneficiary was arranged but that she had corresponded with him. She also indicated that she intended to travel to meet the beneficiary on September 17, 2001 but that her plans were cancelled due to the events of September 11, 2001.

On appeal, the petitioner submitted a letter reiterating that arranged marriages are a custom in Islamic countries. She stated that she respects her religion and culture and has no objection to her mother's having arranged for her to marry the beneficiary, the son of a family friend. She also indicated that because of the current situation in Pakistan, it is impossible for her to meet the beneficiary in that country at this time.

On motion, the petitioner indicates that she cannot comply with the requirement of a personal meeting due to extreme hardship. She states that she initially came to the United States as a refugee and that it would be dangerous for her to travel to meet the beneficiary because he is currently in a refugee area located in Pakistan on the border with Afghanistan. She also asserts that her fiance is unable to travel to a third country unless he has a document that allows him to go to an embassy to apply for a visa.

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, it is understandable that the petitioner, a former refugee from Afghanistan, did not wish to travel to Afghanistan or Pakistan to meet the beneficiary during the requisite time period. However, she has failed to submit any credible documentary evidence as to why she and the beneficiary could not have met in an alternate country. While the documentation submitted indicates that the beneficiary has been in a refugee camp in Pakistan since January 2000, no evidence to support that assertion has been submitted and there is no credible documentary evidence contained in the record to establish that the beneficiary has sought to obtain permission to depart the refugee camp but is precluded from doing so. Finally, the record does not support a claim that a personal meeting would violate strict and long-

established customs of the beneficiary's foreign culture or social practice. The evidence merely reflects that arranged marriages, wherein the parties have not met, do occur in Muslim countries.

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 order dismissing the appeal will be affirmed. The petition will be denied.

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 Associate Commissioner's order dated August 22, 2002 dismissing the appeal is affirmed. The petition is denied.