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U.S. Citizenship and Immigration Services

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AUG 31 2005

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
LIN 04 143 52736

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Ellen C. Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). 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 Iran, as the fiancée 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 acting director denied the petition after determining that the record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. Further, the director found that the petitioner had failed to establish that meeting as required would have constituted an extreme hardship to him or would have violated the customs of the beneficiary's foreign culture or social practice. *Decision of the Acting Director*, dated December 2, 2004.

Section 101(a)(15)(K) of 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.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states, in pertinent part, that a fiancé(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. . . .

Pursuant to 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 regulation at section 214.2 does not define what may constitute extreme hardship to the 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.

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with Citizenship and Immigration Services on April 20, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 20, 2002 and ended on April 20, 2004.

At the time of filing, the petitioner indicated that he had not previously met the beneficiary as his marriage had been arranged by his parents and, therefore, such a meeting was unnecessary. He further stated that he had concerns about traveling to Iran, both because he might be conscripted into the Iranian military and because he is a U.S. citizen. Therefore, the evidence of record does not establish that the petitioner complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner contends that he was prevented from traveling to meet the beneficiary because he was a new employee and required to attend training courses. As proof, he submits a March 22, 2004 letter offering him employment as an electronic engineer, with a start date of April 5, 2004. The petitioner also states that, as he now feels more secure in his job, he plans to travel to Dubai in early 2005 to meet the beneficiary. He asks to be given time to submit proof of this meeting.

The AAO finds the petitioner's explanations as to why he and the beneficiary did not meet during the two-year-period immediately preceding the filing of the Form I-129F to be insufficient to establish that compliance with the meeting requirement would either have constituted an extreme hardship for the petitioner or would have violated the customs of the beneficiary's culture or social practice. Although the petitioner provides a range of reasons for his decision not to travel to Iran – possible conscription into the Iranian military, concerns about traveling to Iran as a U.S. citizen, and his new employment status – none support a finding that a meeting with the beneficiary would have constituted an extreme hardship for him.

Although section 214(d) of the Act requires that the petitioner and beneficiary meet, it does not require the petitioner to travel to the beneficiary's home country. Therefore, the petitioner's concerns about travel to Iran could have been addressed by meeting the beneficiary at a location outside Iran, including a location in the United States. The record does not, however, demonstrate that the petitioner explored such options.

The AAO also finds the petitioner's statements regarding his employment obligations to be unpersuasive in establishing his inability to meet the beneficiary. Employment obligations are a common concern among individuals who wish to file Form I-129Fs and, therefore, do not constitute extreme hardship. Further, the letter of employment the petitioner submits on appeal indicates the start date of his new employment as April 5, 2004, 15 days prior to the end of the two-year meeting period. As a result, whatever his employment obligations from that date forward, they did not prevent his meeting with the beneficiary for the period April 20, 2002 to April 5, 2004.

As to whether the compliance with the meeting requirement might have violated the beneficiary's culture or social practice, the record does not indicate that religious beliefs or social mores precluded a meeting between the petitioner and beneficiary. Rather, the petitioner's statements on appeal regarding his intention to meet the beneficiary in Dubai lead to the conclusion that such concerns played no part in the petitioner's failure to comply with the meeting requirement.

Taking into account the totality of the circumstances, as presented by the petitioner, the AAO does not find that compliance with the meeting requirement would have resulted in extreme hardship to the petitioner or would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the circumstances that exempt a petitioner from the meeting requirement of 214(d) of the Act. Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. If the petitioner and beneficiary have met in Dubai, the petitioner may file a new Form I-129F petition on the beneficiary's behalf so that a new two-year period during which the parties are required to have met will apply.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.