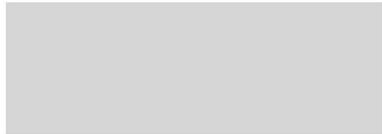




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUN 11 2015

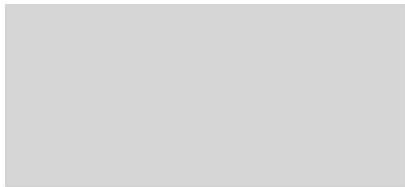
FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Pakistan, as the fiancée of a U.S. citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the petitioner failed to establish that she met the beneficiary in person during the two-year period before she filed the Form I-129F, Petition for Alien Fiancé(e) (Form I-129F), or that she is eligible for a waiver of the meeting requirement.

On appeal, the petitioner submits a brief written on her behalf, an additional affidavit from her father, a letter from a therapist, and she resubmits two affidavits from muftis and the documents she originally submitted with her Form I-129F, including, but not limited to, affidavits from her father, financial records, and medical documentation. The entire record was reviewed and considered in rendering this decision.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) is the fiancée or fiancé 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 admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Form I-129F, including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

Factual and Procedural History

The petitioner filed the Form I-129F on November 14, 2012. On that form she responded, "No" to question 18, which asks whether she and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition.

The director subsequently issued a request for evidence of, among other things, the personal meeting between the petitioner and the beneficiary. The director stated that if the petitioner and the beneficiary have not met during the two-year period preceding the date the petitioner filed Form I-129F, the petitioner must submit evidence to show that meeting would cause an extreme hardship to her or would violate the beneficiary's strict and long-established customs, foreign culture, or social practice. In response to the director's request, the petitioner submitted two affidavits from muftis regarding customary practices for an engaged couple meeting prior to their marriage.

In denying the Form I-129F, the director stated that the petitioner did not provide evidence establishing that she met the beneficiary within the requisite period as required under section 241(d) of the Act or that she was eligible for a waiver based on extreme hardship. Specifically, the director concluded that the petitioner did not submit evidence to support her claim that the two muftis who wrote affidavits to support her petition are authorities on the Islamic faith or showing that compliance with the meeting requirement violates Islamic law or strict and long-established customs of the beneficiary's cultural or social practices.

On appeal the petitioner, through counsel, asserts that the affidavits from two muftis establish by the preponderance of the evidence that meeting in person prior to their marriage would violate religious customs. The petitioner also states that it would violate Islamic law for the petitioner and beneficiary to meet without the consent of her father, and on appeal she submits a detailed affidavit from her father, describing his objections. She also states in an additional letter that she cannot go to Pakistan to meet her fiancé, because she does not have enough money for airfare, is afraid of flying, is not allowed by her parents to meet him, and is working and caring for her daughter.

Analysis

The petitioner asserts that she should be exempted from the requirement that she meet with the beneficiary both because it would cause her an extreme hardship to do so and because compliance would violate religious, cultural and social practices. The evidence in the record reflects that the beneficiary and the petitioner met via the Internet, on Facebook, a year prior to their engagement in September 2012.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary 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 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 submits evidence to support claims that financial, emotional and other hardships prevented her from meeting the beneficiary in person. With regard to her financial hardships, the petitioner, in her letters, states that she cannot afford the cost of airfare to visit the beneficiary and indicates that she fears flying. She also states that she works seven days a week in her father's business, and she has no time off. With regard to her emotional hardships, the record contains documentation indicating that the petitioner's second marriage was not healthy and that she has suffered from depression and anxiety. She also indicates that she is raising her daughter from her second marriage by herself, and she states that she also cares for her elderly mother. Her father indicates that the petitioner also takes care of him as well, yet the petitioner states that her father still works in his small business, where she also is employed. Lastly, the petitioner's father states that he does not want the petitioner to travel to Pakistan, because given her past experiences, he does not trust people there.

While we acknowledge that the petitioner would incur financial expense and that she has work and family responsibilities, the financial and time commitments required for travel to a foreign country are common requirements faced by those filing a Form I-129F petition and do not constitute extreme hardship to the petitioner. Moreover, the note regarding the petitioner's fear of flying lacks sufficient detail about the extent of this fear and does not address whether it is treatable. With regard to the potential emotional and psychological issues of the petitioner, the record does not contain documentation demonstrating that her mental-health issues would prevent her from traveling to meet the beneficiary.

Although the petitioner's father's safety concerns regarding the petitioner's travel to Pakistan may have some merit, section 214(d) of the Act, requiring the petitioner and the beneficiary to meet, does not require meeting in the beneficiary's home country. The record does not demonstrate that the petitioner and the beneficiary considered meeting in a country other than Pakistan. The petitioner, therefore, has not shown that she should be exempted from the requirement that she meet the beneficiary in person on account of the extreme hardship that requirement would cause her.

The petitioner also asserts that complying with the meeting requirement prior to their marriage would violate religious custom and that it would also violate Islamic law for the petitioner and beneficiary to

meet without the consent of her father. The petitioner submits two affidavits from muftis, both stating that they are religious authorities and that the petitioner and beneficiary would violate customs and social practices if they were to meet before the wedding. The petitioner, through counsel, also asserts that one of the muftis is an Islamic jurist and that his affidavit, notarized by authorities in [REDACTED] Pakistan, is a sworn statement before Allah. However the record does not contain objective documentation to corroborate assertions that these two muftis are religious leaders or to explain the effect of an affidavit by a leader in their faith. Even had the evidence been sufficiently corroborated, the mufti's affidavit notarized in Maryland in June 2013 indicates that the petitioner and beneficiary may see each other "in the presence of others before making the final commitment." This statement seems to permit meetings before marriage, provided the petitioner and beneficiary meet with others present. In addition, the petitioner has not presented evidence that the beneficiary is a practicing member of a religious or cultural group which precludes premarital meetings of the future bride and groom. Moreover, the petitioner also has not established that any and all other aspects of the traditional arrangements have been or will be met in accordance with the Muslim customs or practices, as required by 8 C.F.R. § 214.2(k)(2).

Based on our review of the evidence in its entirety, we find that the petitioner has not shown that complying with the meeting requirement would violate strict and long-established customs of the foreign culture or social practice of the petitioner and the beneficiary.

The petitioner, through counsel, alternatively asserts that it would violate Islamic law for the petitioner and beneficiary to meet without the consent of the petitioner's father. However, the petitioner does not provide support for these assertions. Although her assertions are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. See *Matter of Kwan*, 14 I&N Dec. 175 (BIA 1972) ("Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it."). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The petitioner has not submitted probative evidence that she and the beneficiary met in person between November 14, 2010 and November 14, 2012, which is the two-year period immediately preceding the filing of the petition, or evidence that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). Taking into account the totality of the circumstances as the petitioner has presented them, we do not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the foreign culture or social practice of the petitioner and the beneficiary. Accordingly, the appeal is dismissed. The petition must be denied.

Conclusion

The appeal will be dismissed for the above stated reasons. In fiancée visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that

(b)(6)

NON-PRECEDENT DECISION

Page 6

burden has not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

ORDER: The appeal is dismissed. The petition remains denied.