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U.S. Department of Justice  
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



**PUBLIC COPY**

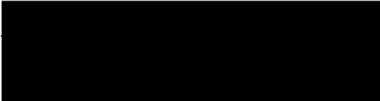
15 NOV 2001

File: [Redacted]

Office: NEBRASKA SERVICE CENTER

Date:

IN RE: Petitioner:  
Beneficiary:



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

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 which 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 which 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

for Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the Nebraska Service Center denied the nonimmigrant visa petition and the matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, as the fiancé(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 previously met in person as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner's failure to comply with the statutory requirement was not the result of extreme hardship to the petitioner or unique circumstances.

On appeal, the petitioner submits a statement.

8 C.F.R. 214.2(k)(2) states, in pertinent part:

*Requirement that petitioner and beneficiary have met.*  
The petitioner shall establish to the satisfaction of the director that the petitioner and beneficiary have met in person within the two years immediately preceding the filing of the petition.

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on December 14, 2000. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 14, 1998 and ended on December 14, 2000.

In response to Question #19 on the Form I-129F, the petitioner stated that he and beneficiary had never met. The petitioner explained that he suffered from several medical conditions such as, rheumatic arthritis, broken Achilles tendons, and knee and hip joint problems. The petitioner also stated that he is a kidney transplant recipient and he takes medication to prevent his immune system from rejecting his kidney. Citing that no unique circumstances existed to waive the requirement of a personal meeting between the petitioner and the beneficiary within the two years that immediately preceded the filing of the petition, the director denied the petition.

On appeal, the petitioner again requests a waiver of the requirement to meet the beneficiary in person due to his medical condition. The petitioner submits a letter from his physician who outlines the petitioner's illnesses. The physician's list of the petitioner's medical conditions mirrors those conditions the petitioner previously stated. The physician also adds that the

petitioner is "post bypass surgery times four."

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 with the regulation 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, 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.

The regulation 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.

The petitioner states that it would have been a hardship for him to travel to the Philippines during the December 14, 1998 to December 14, 2000 period due to his medical problems. On appeal, the petitioner has presented sufficient evidence to overcome the director's objection to the approval of the petition. The petitioner's physician supports the petitioner's own statement that travel to the Philippines during the relevant period of time would have been an extreme hardship on the petitioner due to the various medical conditions from which the petitioner suffers. Accordingly, the petitioner merits a favorable exercise of discretion and the Service shall waive the requirement of an in person meeting between him and the beneficiary.

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 met that burden.

**ORDER:** The director's decision of April 12, 2001 is withdrawn. The appeal is sustained and the petition is approved.