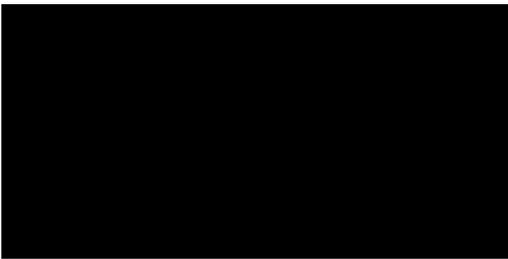




U.S. Citizenship
and Immigration
Services



FILE: [REDACTED]
WAC 03 135 54359

Office: CALIFORNIA SERVICE CENTER

Date: OCT 25 2004

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

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.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to
prevent [REDACTED] granted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, 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 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. *Decision of the Director*, dated September 12, 2003.

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 the Immigration and Naturalization Service [now Citizenship and Immigration Services] on March 26, 2003. Therefore, the petitioner and the beneficiary were required to have met during the period that began on March 26, 2001 and ended on March 26, 2003.

In response to the director's request for evidence and additional information concerning the parties' last meeting, the petitioner submitted a copy of the petitioner's United States passport identification page and stamp page evidencing entry into the Philippines on January 16, 2003 and photocopies of non film-dated photographs.

On appeal, the petitioner submits a letter, dated October 7, 2003; two photographs including one of the petitioner and the beneficiary together; copies of a ledger kept by the petitioner; a copy of a receipt from a jeweler in the Philippines, dated January 17, 2003; a copy of a credit card invoice reflecting charges incurred in the Philippines including a charge from the aforementioned jeweler and copies of hotel invoices reflecting issuance to the petitioner. The petitioner further submits a letter, dated August 10, 2004 and copies of the beneficiary's academic transcripts, degrees and certifications.

The record on appeal reflects that the petitioner traveled to the Philippines during January 2003, within the two-year period immediately preceding the filing of the Form I-129F petition. Although the provided photographs are undated, their timeframe is substantiated by the petitioner's trip to the beneficiary's home country. Further, the petitioner provides copies of receipts evidencing expenditures in relation to his courtship of and engagement to the beneficiary. The AAO finds that the evidence establishes compliance with the meeting requirement under section 214(d) of the Act. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained and the application is approved.