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U.S. Citizenship  
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Services

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FILE:

[REDACTED]  
SRC 03 137 52905

Office: TEXAS SERVICE CENTER

Date: SEP 22 2005

IN RE:

Petitioner:  
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

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

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, and that the petitioner had not established that compliance with the meeting requirement would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *Decision of the Director*, dated March 29, 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 Citizenship and Immigration Services on May 22, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 22, 2000 and ended on May 22, 2002.

In response to the director's request for evidence and additional information regarding the Form I-129F petition, the petitioner submitted a statement indicating that travel to the Philippines would impose hardship on him as he is a single parent, fears flying and would compromise his own safety by traveling to a region characterized by acts of terrorism and kidnappings.

On appeal, the petitioner asserts that the United States Embassy in Manila has posted a warning advising Americans not to travel to the area where the beneficiary lives. In addition, the petitioner states that his daughter was diagnosed with Attention Deficit Disorder and his mother died during the required two-year meeting period. The petitioner indicates that he cannot fly because allergies render it difficult for him to adjust to changes in air pressure. He also states that SARS would be fatal to him as he suffers from heart problems. *Letter from Charles Rogers*, dated April 10, 2003.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between May 22, 2000 and May 22, 2002. Although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The AAO acknowledges that the petitioner feels it would be unsafe for him as an American citizen to travel to the Philippines, but the record on appeal does not establish that the petitioner and the beneficiary are unable to meet in a third country, such as Malaysia where the beneficiary previously resided, in order to secure compliance with the meeting requirement. The petitioner states that he is unable to travel because he suffers from allergies. In support of this assertion, the petitioner submits copies of a prescription for Claritin and a prescription for Nasanex. The prescriptions and statements of the petitioner do not constitute sufficient evidence to establish that the petitioner is unable to fly. The record fails to contain a letter or other documentation from a medical professional diagnosing the petitioner's condition. The AAO notes that the petitioner further indicates that he suffers from "heart trouble," however, the statement of the petitioner standing alone fails to form the basis for a finding that the petitioner is unable to fly owing to a cardiac condition. *Id.* 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 evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does 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 beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

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.