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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
WAC 05 067 51857

Office: CALIFORNIA SERVICE CENTER Date:

JAN 18 2006

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 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

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 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 had failed to establish that he and the beneficiary had personally met within the two-year period preceding the date of filing the petition, as required by section 214(d) of the Act. The director also found the petitioner to be ineligible for an exemption from the meeting requirement under 8 C.F.R. § 214.2(k)(2). *Decision of the Director*, dated April 13, 2005.

Section 101(a)(15)(K) of the Immigration and Nationality Act (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 January 4, 2005. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on January 4, 2003 and ended on January 4, 2005.

At the time of filing, the petitioner indicated that he had not previously met the beneficiary, but had established his relationship with her through Internet chat rooms and the web cam. He stated that he and the beneficiary had discussed his travel to The Philippines, but that she had informed him that the political situation in her area made it unsafe for him to visit her. He also noted that travel to The Philippines would be difficult for him because he would have to take his children with him. In response to the director's request for evidence, the petitioner again asserted the dangers of traveling to Mindanao, the beneficiary's home island and submitted Philippine travel advisories from the British and Australian governments, and a 2002 South Asia Analysis Group paper on terrorist activity in The Philippines. He also indicated that he could not afford the cost of traveling to The Philippines with his children. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner submits photographs of himself and the beneficiary taken during a web cam conversation. He asserts that the web cam has eliminated the need for the meeting requirement of section 214(d) of the Act and that it is time it was changed. While the AAO notes the petitioner's statements, there is currently a statutory requirement for a face-to-face meeting between a petitioner and beneficiary during the two-year period preceding the filing of a Form I-129F. In the instant case, the petitioner, while he may have seen the beneficiary via the Internet, has not complied with that requirement.

The petitioner's appeal also raises his parental responsibilities and the dangers of traveling in The Philippines as reasons he should be exempted from the requirement of section 214(d). He further contends that his responsibilities as a member of the Honolulu Police Department prevent him from taking time off to go to The Philippines. However, personal obligations, including those involving employment and family, present challenges for many individuals who plan to travel overseas prior to filing a Form I-129F. The same is true for the financial concerns that the petitioner has raised. As a result, they do not constitute extreme hardship. Neither do the petitioner's concerns about traveling to The Philippines.

While section 214(d) of the Act stipulates that a petitioner and beneficiary must meet during the two-year period preceding the filing of the Form I-129F, it does not require the petitioner to travel to the beneficiary's home country. Accordingly, the petitioner and beneficiary could have satisfied the requirements of section 214(d) of the Act by meeting at a location outside The Philippines. The record, however, provides no evidence that the petitioner and beneficiary actively considered or pursued such an option. While the petitioner, on appeal, states that the beneficiary would have to post a bond of \$3,000 in order to obtain a U.S. tourist visa, he offers no evidence that the beneficiary sought a visa to the United States or any other country in order to satisfy 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 him 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 section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

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

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 not met that burden.

ORDER: The appeal is dismissed.