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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] Office: CALIFORNIA SERVICE CENTER Date: JUN 28 2006  
WAC 05 232 50994

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.

Robert P. Wiemann, Chief  
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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of The Philippines, as the fiancé 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 record did not establish that the petitioner and beneficiary had personally met within the two-year period immediately preceding the filing of the petition, as required by section 214(d) of the Act. He further determined that the record failed to establish a basis on which the petitioner might be exempted from that requirement. *Decision of the Director*, dated November 2, 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 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 July 22, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 22, 2003 and ended on July 22, 2005.

At the time of filing, the petitioner indicated that she and the beneficiary had previously met, stating that they had once been married. The petitioner submitted copies of both her 1992 marriage contract and a July 25, 2001 Notice of Entry of Judgment that establishes July 11, 2001 as the effective date of her divorce from the beneficiary. She submitted no evidence of a meeting with the beneficiary during the specified time period.

On appeal, the petitioner provides a range of documentary evidence to establish that she met the beneficiary in November 2005 in Quezon City, the city in which the record indicates the beneficiary resides. Based on this meeting, she asks that the instant petition be approved. However, the petitioner's November 2005 meeting with the beneficiary does not satisfy the meeting requirement of section 214(d) of the Act, 8 U.S.C. § 1184(d), as it relates to the Form I-129F filed by the petitioner on July 22, 2005.

The petitioner's November 2005 trip to The Philippines occurred after she filed the Form I-129F on behalf of the beneficiary. Therefore, although she has submitted evidence to establish that she has met the beneficiary, this meeting did not take place within the required two-year time period noted above – July 22, 2003 to July 22, 2005 – and, therefore, does not satisfy section 214(d) of the Act. Accordingly, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have now met, she may file a new I-129F petition on his behalf so that a new two-year meeting period will apply. To comply with the meeting requirement of section 214(d) of the Act, a new petition must be filed within two years of the petitioner's November 2005 trip to The Philippines.

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.