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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: **AUG 09 2007**
WAC 07 048 52521

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, 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 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 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. She further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the Director*, dated March 8, 2007.

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 December 11, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 11, 2004 and ended on December 11, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had never met. Therefore, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

The petitioner stated that he was going to go to the Philippines in 2005 to meet the beneficiary, but he had to use his vacation time for his son's wedding. *Letter from the petitioner*, dated December 1, 2006. The petitioner again tried to meet the beneficiary in Taiwan while working there in 2006, but due to their respective work schedules and his inability to get vacation time, they were unable to meet. *Id.* The petitioner stated that he recently accepted employment and is unable to get a vacation until late 2007. *Id.*

On appeal, the petitioner indicates that he is unsure of the meaning of extreme hardship but that he does not have the financial resources to submit appeals, take multiple flights to the Philippines or hire a lawyer. He states that he has been in significant debt following a divorce, family death and the loss of a business. The petitioner contends that it would have been an extreme hardship for him to send money each month to help support the beneficiary, to pay for travel to the Philippines, to live in a high-cost area and also pay off his debt.

While the AAO acknowledges the petitioner's statements regarding his work schedule, inability to obtain vacation time and financial situation, the need to coordinate overseas travel with personal obligations, such as employment, is faced by many individuals who wish to file Form I-129Fs, as are the financial concerns raised by such travel. Accordingly, the petitioner's employment responsibilities and financial concerns do not constitute extreme hardship under 8 C.F.R. § 214.2(k)(2). Moreover, as section 214(d) of the Act does not require that the petitioner travel to meet the beneficiary, only that the petitioner and beneficiary meet during the two-year period immediately preceding the filing of the Form I-129F, the meeting requirement in the present case could have been satisfied by the beneficiary traveling to the United States. There is, however, no evidence in the record to indicate that the petitioner and beneficiary considered or explored such an option. As the record also offers no proof that compliance with the meeting requirement would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the petitioner has also failed to establish a basis for exemption under the only other exemption criterion at 8 C.F.R. § 214.2(k)(2). Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. Once the petitioner and beneficiary have met, he may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period 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.