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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 07 081 50660

Office: CALIFORNIA SERVICE CENTER

Date: JAN 11 2008

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 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 comply with the meeting requirement of 214(d) of the Act or to establish that meeting the beneficiary within the two-year period immediately preceding the filing of the petition would have resulted in extreme hardship, or would have violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated May 31, 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 January 19, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 19, 2005 and ended on January 19, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met as travel to the Philippines posed a serious threat. *Form I-129F*, dated January 18, 2007.

On April 25, 2007, the Director requested additional documentation showing that meeting the beneficiary during the two-year time period prior to filing would have resulted in extreme hardship. In response to the director's request for documentation, the petitioner submitted a note from his doctor and a State Department travel warning to establish that his health limits his foreign travel and that he would not be safe if he traveled to the Philippines. The note from the petitioner's doctor states that the petitioner is undergoing chemotherapy treatment for leukemia and needs constant medical attention. *Note from [REDACTED]* dated May 4, 2007. He also submitted a State Department travel warning stating that U.S. citizens visiting the Philippines should carefully consider the risks to their safety and security and that they may encounter these risks anywhere in the Philippines. *State Department Travel Warning*, dated April 27, 2007.

On appeal, the petitioner states that he and the petitioner have not met in person, but have been communicating by internet, mail and telephone for two years. *Form I-290B*, dated June 8, 2007. In support of these statements, the petitioner submits evidence of his internet and telephone communications with the beneficiary, as well as a letter from the beneficiary's roommate in the Philippines who states that the petitioner and the beneficiary have been in the communication for two years.

The AAO acknowledges that the petitioner's medical condition would have made travel a significant hardship for him during the specified period. Further, the AAO acknowledges the warning issued to U.S. citizens thinking of traveling to the Philippines. However, the AAO notes that 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 record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to the Philippines, including, but not limited to the beneficiary traveling to meet the petitioner in the United States. Thus, the record does not support a finding that a meeting between the petitioner and beneficiary would have resulted in extreme hardship and the appeal will be dismissed.

The denial of the petition is without prejudice. After the petitioner and beneficiary have met, the petitioner 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.