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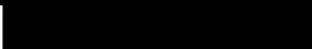
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JAN 11 2008

WAC 07 069 53180

IN RE:

Petitioner:

Beneficiary:



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 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 failed to establish that he and the beneficiary had met within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated May 30, 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 5, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on January 5, 2005 and ended on January 5, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had met and described the process of their courtship, but did not state the specific time of their meeting. *Form I-129*, dated January 1, 2007.

On March 30, 2007, the Director requested documentation showing that the beneficiary and petitioner had met during the two-year time period prior to filing and if they had not met during this time period documentation showing that such a meeting would have resulted in extreme hardship or violated the customs of the beneficiary's culture or social practice. The director also requested Form G-325As, Biographic Information sheets, and passport-style photographs. In response to the director's request for documentation, the petitioner submitted Form G-325As, passport-style photographs, and additional documentation for himself and the beneficiary, but failed to provide sufficient evidence of a meeting during the specified period.

On appeal, the petitioner submits a letter of hardship, a photograph of his family and a receipt for a U.S. passport application. The petitioner states that his plans to travel to the Philippines have been delayed because of his employment status, his ability to find someone to care for his four children, his financial obligations and miscellaneous circumstances. *Petitioner's Letter*, dated June 13, 2007. He also states that his culture and religion do not allow and frown upon actions such as: close public displays of affection and private moments alone. *Id.* The petitioner also explains that he submitted a passport application on April 25, 2007 and that as soon as his U.S. passport arrives he is prepared to travel to the Philippines. *Id.*

On December 14, 2007, the petitioner submitted documentation showing that he and the beneficiary had met during a trip to the Philippines from August 3, 2007 to August 13, 2007. The record includes photographs of the petitioner and beneficiary together, a copy of the petitioner's passport showing entry and exit stamps for the Philippines and hotel receipts.

The AAO notes that petitioner's August 2007 trip to meet the beneficiary occurred seven months after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified and does not satisfy section 214(d) of the Act. The AAO also finds that the record fails to establish that a meeting between the petitioner and beneficiary would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice.

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 or a bordering country. Moreover, the financial and time commitments required for travel to a foreign country are common requirements for those filing the Form I-129F petition and do not constitute extreme hardship to the petitioner. The petitioner also failed to submit documentation to support his statements regarding his and the beneficiary's culture and religion. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As 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.