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U.S. Citizenship
and Immigration
Services

D6

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: [illegible]
EAC 04 212 52803

IN RE: Petitioner: [redacted]
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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Acting Director, Vermont 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 acting director denied the petition after determining that the petitioner and the beneficiary had not personally met within the two years immediately preceding the date of filing of the petition, as required by section 214(d) of the Act. *Decision of the Acting Director,* dated September 8, 2004.

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 July 22, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 22, 2002 and ended on July 22, 2004.

At the time of filing, the petitioner stated he and the beneficiary had not previously met, noting that he had not complied with the meeting requirement of section 214(d) of the Act because of the demands of his consulting business. He further indicated that, as he is currently not a member of the beneficiary's church, visiting her in the Philippines would have been difficult. On appeal, the petitioner reiterates that he is not yet a member of the beneficiary's church and states that his travel to meet her in the Philippines would violate the customs of the beneficiary's culture, religion and social practice. He submits materials to document that members of the beneficiary's faith are prohibited from marrying nonmembers. The petitioner's statements do not, however, establish his eligibility for an exemption of the meeting requirement under 8 C.F.R. 214.2(k)(2).

Although section 214(d) of the Act requires the petitioner and beneficiary to have met between July 22, 2002 and July 22, 2004, it does not stipulate that the petitioner must travel to the beneficiary's home country. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to the Philippines. While the AAO notes the July 12, 2004 e-mail from the beneficiary stating she had been denied a business visa to the United States, it finds no other evidence that the petitioner and beneficiary attempted to arrange a meeting at a location outside the Philippines, including the United States. The AAO also finds the beneficiary's e-mail of July 12, 2004 to establish that a meeting with the petitioner outside the Philippines would not have constituted a violation of the beneficiary's social customs or practices.

At the time of filing, the petitioner also indicated that he had not traveled to meet with the beneficiary because he could not leave his consulting practice. However, the cost of and time required for travel to a foreign country are common concerns for individuals who wish to file Form I-129F petitions. As a result, they do not constitute extreme hardship.

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 the petitioner 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. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new I-129F petition in 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.