U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

[redacted]

D6

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 18 2005

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 of the Administrative Appeals Office 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 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 § 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 not established that he and the beneficiary had personally met within two years before the date of filing the petition, as required by § 214(d) of the Act. On appeal, the petitioner writes that a visit with the beneficiary prior to marriage will cause her to suffer, due to her town's cultural beliefs. He also states that he will suffer extreme hardship if made to travel, due to the fact that he suffers from periodic gout attacks.

Section 101(a)(15)(K) of 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 § 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 (CIS) on August 17, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 17, 2002 and ended on August 17, 2004. The petitioner requested a waiver of this requirement, however, due to his financial concerns and medical problems. The AAO notes that the financial commitment required for travel to a foreign country is a common requirement to those filing the Form I-129F petition and does not constitute extreme hardship to the petitioner.

On appeal, the petitioner submits a letter from Dr. Tad Fujiwara dated November 20, 2004. Dr. Fujiwara wrote that the petitioner suffers from gout attacks several times a year. Dr. Fujiwara noted that the petitioner requires medication during the attacks and adequate hydration on a constant basis. Dr. Fujiwara did not state that the petitioner's gout attacks would prevent him from travelling to the Philippines. The petitioner writes on appeal that because of his gout, he must drink large amounts of water, causing him to relieve himself more often than other people. While the AAO recognizes that this would present an inconvenience during a long flight, such inconvenience does not amount to extreme hardship.

In his letter on appeal, the petitioner also explains that his visit to the beneficiary's town in 2000 caused the beneficiary's neighbors to gossip about the beneficiary's morals. The petitioner fears that another visit prior to marriage will cause the beneficiary further embarrassment and humiliation. He also believes that she will be fired from her job as a schoolteacher if he travels to see her. Although there is no documentation on the record regarding cultural traditions in the beneficiary's region of the Philippines, the AAO acknowledges the common perception that small-town neighbors are apt to gossip about individuals of interest. Nevertheless, the petitioner has not submitted evidence to establish that he must stay at the beneficiary's house when he visits her, or that his visit would violate long-standing cultural traditions, such as a prohibition against meeting one's fiancée.

The AAO points out that § 214(d) of the Act does not necessarily require the petitioner to travel to the beneficiary's home country in order to accomplish the meeting. The record 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.

Under § 214(d) of the Act, the petitioner and the beneficiary were required to have met between August 17, 2002 and August 17, 2004. The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. 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 Form I-129F petition on the beneficiary's behalf when sufficient evidence is available. The burden of proof in these proceedings rests solely with the petitioner. *See* § 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.