U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: FEB 12 2007

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IN RE: Petitioner:
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.

Ellen C. Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the acting director, Nebraska 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 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. He further determined that the record did not establish a basis on which to exempt the petitioner from this requirement. *Decision of the acting director, dated February 7, 2006.*

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 July 7, 2005. Therefore, the petitioner and the beneficiary were required to have met during the period that began on July 7, 2003 and ended on July 7, 2005.

At the time of filing, the petitioner indicated that he and the beneficiary had never met, stating that they did not need to meet to "check each other out." 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 has indicated that he is unable to travel to other countries due to restrictions placed on him for failure to pay child support.

On appeal, the petitioner states that he wishes to marry the beneficiary based upon his personal religious convictions and notes that he has the approval and blessings of the beneficiary's parents. *Form I-290B.* The petitioner has submitted several hundred pages of documentation professing his love for the beneficiary.

While the AAO notes the petitioner's contention that he and the beneficiary do not need to meet to know they wish to marry, section 214(d) of the Act requires such a meeting for the approval of a Form I-129F petition unless compliance with this requirement would have constituted an extreme hardship for him or would have violated the customs of the beneficiary's culture or social practice. Although the petitioner has stated that he is unable to travel outside the United States because he owes back child support, he has submitted no evidence to support this claim. Absent supporting documentation, the petitioner's assertion is insufficient proof that he was unable to travel during the specified period.

Moreover, section 214(d) of the Act does not require that a petitioner travel to the beneficiary's country of residence, only that they meet during the two-year period immediately preceding the filing of the Form I-129F. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary considered or explored options for a meeting that would have accommodated the legal restrictions the petitioner states have been placed on his travel, including the beneficiary traveling to the United States. Therefore, the petitioner has not demonstrated that a meeting with the beneficiary could not have occurred without posing an extreme hardship for him.

The record also fails to indicate that a meeting with the petitioner would have violated any strict and long-established customs of the beneficiary's foreign culture or social practice, the other basis on which a petitioner may be exempted from the meeting requirement of section 214(d) of the Act. 8 C.F.R. § 214.2(k)(2)(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.