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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

D6

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAR 18 2008

WAC 07 167 53375

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 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 had 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 October 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 April 24, 2007. Therefore, the petitioner and the beneficiary were required to have met during the period that began on April 24, 2005 and ended on April 24, 2007.

At the time of filing, the petitioner indicated that he and the beneficiary had not previously met, that he knew the beneficiary through her aunt and that their relationship has been established through pictures, telephone calls and letters. He states that he sends the beneficiary money almost every month. *Form I-129F,* dated April 20, 2007.

On August 24, 2007, the Director requested documentation establishing that the petitioner and beneficiary had met during the two-year time period prior to filing. In response to the director's request for documentation, the petitioner submitted a letter stating that he had never met the beneficiary in person, but they have been communicating through letters and phone calls since 2003. *Letter from Petitioner*, dated August 31, 2007.

On appeal, the petitioner submits a second letter, which states that it would be an extreme hardship for him to travel to the Philippines. He states that he is a car salesman and earns income on a commission basis only and taking time to travel to the Philippines would mean he would not have an income. *Letter from Petitioner*, dated November 13, 2007. He also states that he earns approximately $30,000 per year and that this income is just enough to cover his expenses, so he is not able to save much money and the money that he does save is for the beneficiary's plane ticket to the United States. *Id.*

The AAO notes that the challenge of coordinating overseas travel with employment obligations and financial commitments is faced by many individuals who wish to file Form I-129Fs. Accordingly, such obligations and commitments do not constitute extreme hardship under the regulation at 8 C.F.R. §214.2(k)(2). Moreover, while the petitioner and the beneficiary are required to meet during the two-year period immediately preceding the filing of the Form I-129F, that meeting need not occur in 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 the beneficiary traveling to meet the petitioner in the United States. Therefore, 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.