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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
LIN 04 225 52301

Office: NEBRASKA SERVICE CENTER

Date: NOV 21 2005

IN RE: Petitioner: [REDACTED]
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.

Robert P. Wiemann, Director
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 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 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 preceding the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Acting Director*, dated February 25, 2005.

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 August 6, 2004. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on August 6, 2002 and ended on August 6, 2004.

At the time of filing, the petitioner indicated that he had met the beneficiary in 2002, but did not state whether that meeting occurred within the specified time period just noted. In response to the director's request for evidence, the petitioner submitted copies of pages from his passport showing two legible Philippine admissions stamps dated December 6, 1999 and January 10, 2002. He also submitted a credit card statement for a purchase made on January 19, 2002 in The Philippines. However, the evidence submitted by the petitioner does not indicate that he was in The Philippines during the specified period of August 6, 2002 to August 6, 2004. Accordingly, the evidence of record does not establish that the petitioner has complied with the meeting requirement of section 214(d) of the Act.

On appeal, the petitioner indicates that he has not seen the beneficiary since meeting her in January 2002. He asserts that, as he works in a local hospital, he could not risk traveling to The Philippines during the SARS epidemic in 2003. He further states that his mother's surgery in 2004 led him to cancel a trip he had planned for that year. However, the employment and family obligations cited by the petitioner do not establish that complying with the meeting requirement would have constituted an extreme hardship for him.

The challenge of coordinating overseas travel with family obligations is faced by many individuals who wish to file Form I-129Fs and, therefore, does not qualify as extreme hardship. Further, while section 214(d) of the Act requires a meeting between the petitioner and the beneficiary during the two-year period immediately preceding the filing of the Form I-129F, it does not require that the petitioner travel to the country where the beneficiary resides. The record does not, however, establish that the petitioner and the beneficiary exhausted all attempts to meet in person at a location that could have accommodated both the petitioner's employment and family obligations. It does not demonstrate that the petitioner and the beneficiary even explored options for a meeting beyond the petitioner traveling to The Philippines, including the beneficiary traveling to meet the petitioner in the United States. 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 him 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. 8 C.F.R. § 214.2(k)(2). Accordingly, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the appeal is dismissed without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F on her 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.