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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

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PUBLIC COPY



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

AUG 15 2006

IN RE:

Petitioner:
Beneficiary



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, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is before the Administrative Appeals Office on appeal. The appeal will be sustained.

The petitioner is a native and citizen of the United States. The beneficiary is a native and citizen of the Philippines. The director denied the petition after determining that the petitioner and the beneficiary had not met each other personally, as required under § 214(d) of the Immigration and Nationality Act (Act). The director noted that although the evidence established that the petitioner was unable to travel by air to Hong Kong, where the beneficiary lives, because he suffers from quadriplegia, there was no evidence that the beneficiary could not travel to the United States in order to comply with the meeting requirement.

On appeal, the petitioner states that his fiancée is not able to travel to this country, because she works as a domestic servant in Hong Kong and would be unable to procure a U.S. visitor's visa. He also states that she cannot afford the cost of the airfare and will not accept money from the petitioner, since they are not yet married.

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), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed. 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.

In the instant case, the reasons given by the petitioner for not having met the beneficiary in person support a finding that compliance with the requirement would cause extreme hardship to the petitioner. The record contains a letter by [REDACTED], the petitioner's physician, who wrote that the petitioner suffers from quadriplegia and pressure ulcers; therefore, he should not undertake long trips. It does not appear that the petitioner would be able to travel anywhere outside the United States to meet the beneficiary, and it is also unlikely that, as a domestic servant with no pressing financial or other ties to the Philippines, she would be able to procure a visitor's visa to enter the United States. The AAO notes that expenses involved in international travel are normal difficulties frequently encountered in complying with the meeting requirement. Nevertheless, the totality of the circumstances indicates that compliance with the meeting requirement would cause the petitioner to suffer extreme hardship.

The burden is on the petitioner to establish by a preponderance of the evidence that compliance with the meeting requirement would impose extreme hardship on him. In this case, the petitioner has met this burden. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained.