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U.S. Citizenship  
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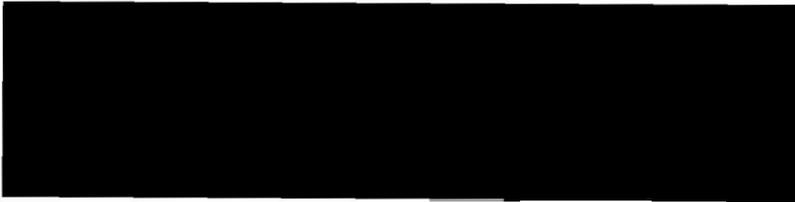
Petitioner:

Beneficiary:



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:



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, 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 petitioner had failed to establish that he and the 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. The acting director also found the petitioner to be ineligible for an exemption from the meeting requirement under 8 C.F.R. § 214.2(k)(2). *Decision of the Acting Director*, dated December 1, 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 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 18, 2005. Therefore, the petitioner and the beneficiary were required, by law, to have met during the period that began on July 18, 2003 and ended on July 18, 2005.

At the time of filing, the petitioner indicated that he had not previously met the beneficiary, contending that he could not travel to The Philippines because of the demands of his business. On appeal, counsel submits a letter from the petitioner stating while both family and business commitments have prevented him from meeting the beneficiary, his main reason for not traveling to The Philippines are the medical concerns **presented by air travel**. The petitioner's claims are supported by a May 22, 2000 letter written by a doctor at the [REDACTED] Center in Lake Mills, Wisconsin. The doctor indicates that he has known the petitioner for many years and that the petitioner has "quite severe agoraphobia" and is "very phobic in closed spaces and public places." A December 9, 2005 note handwritten on the medical center statement by another doctor states that there has been no change in the petitioner's medical history and that he should not travel by air. The submitted evidence does not, however, establish a basis for exempting the petitioner from compliance with the meeting requirement.

Although the AAO notes the petitioner's obligations to his family and business, the challenge of coordinating overseas travel with personal obligations, including those related to employment and family, is faced by many individuals who wish to file Form I-129Fs. Accordingly, the petitioner's concerns regarding his father and his business do not constitute extreme hardship under the regulation at 8 C.F.R. § 214.2(k)(2).

The AAO accepts the statement from the Lake Mills physician indicating that the petitioner's health would have precluded his travel to The Philippines during the specified period. However, section 214(d) of the Act does not require the petitioner to travel to the beneficiary's country of residence, only that the petitioner and beneficiary meet during the two-year period immediately preceding the filing of the Form I-129F. Accordingly, the meeting requirement could also have been satisfied by the beneficiary traveling to the United States or to a country near the United States to meet the petitioner, thus minimizing any physical hardship on him. However, the record on appeal does not demonstrate that the petitioner and the beneficiary actively considered or explored options for a meeting beyond the petitioner traveling to The Philippines. Although on appeal the petitioner states that the beneficiary is "working on her visitor's visa and this has been very hard for her," he does not indicate the nature of the beneficiary's difficulties, nor document them. Therefore, although the petitioner may have established that he was unable to travel to The Philippines during the specified period, he has failed to prove that a meeting with the beneficiary could not have occurred without causing him extreme hardship. As a result, his health does not establish a basis on which he might be exempted from the meeting requirement under the regulation at 8 C.F.R. § 214.2(k)(2).

The petitioner does not address whether 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). Accordingly, the appeal will be dismissed.

The AAO also notes that the record contains no evidence that, at the time he filed the Form I-129F, the petitioner was free to marry the beneficiary, as required by section 214(d) of the Act. At the time of filing, the petitioner submitted a copy of his marital settlement agreement with his previous wife, dated August 23, 2004, and one page of a September 14, 2004 letter from the law firm that represented him in his divorce proceedings, which states that the effective date of his divorce was August 23, 2004. However, neither of these documents is sufficient proof of the petitioner's divorce. As the petitioner has failed to submit a copy of his final divorce decree or judgment, the AAO does not find him to have established that, at the time he filed the Form I-129F, he was free to marry the beneficiary. Accordingly, the appeal will be dismissed for this reason as well.

The denial of the petition is without prejudice. Should the petitioner and beneficiary meet, he may file a new Form I-129F petition on her behalf so that a new two-year period in which the parties are required to have met will apply. In that filing, he will, once again, be required to prove that he is free to marry the beneficiary.

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. The petition is denied.