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U.S. Citizenship  
and Immigration  
Services

DG

[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **JAN 13 2009**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

  
John F. Grissom, Acting 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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, as the fiancé(e) of a United States citizen pursuant to § 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 because the petitioner failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition. On appeal, the petitioner provides a statement and additional evidence.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall 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 U.S. Citizenship and Immigration Services (USCIS) on November 20, 2007. Therefore, the petitioner and beneficiary were required to have met between November 20, 2005 and November 20, 2007.

In denying the petition, the director noted that the petitioner had presented evidence that he and the beneficiary had met in person in March and April 2005 during the petitioner's trip to the Philippines. Noting, however, that this trip was prior to the November 2005 to November 2007 time period, the director denied the petition.

On appeal, the petitioner states that he has been unable to travel to the Philippines due to health problems, which he describes as "a Chemical Imbalance in my brain which at times causes depression and [I] also suffer from Diabetes." The petitioner states that he has kept in constant contact with the beneficiary and that he wants to have a life in the United States with her. In support of his assertions, the petitioner submits a copy of a receipt, dated April 2, 2005, from the Healthway Medical Clinic. The petitioner also submits a note from [REDACTED] on a prescription pad. The note reads, "Pt. should not travel to the Philippines due to mult. medical problems @ this point."

The petitioner has failed to establish that his travel to the Philippines during the requisite period should be exempted because of hardship to him. The evidence regarding the petitioner's medical issues and how they impact on his ability to travel lacks detail and substance. [REDACTED] states that the petitioner should not travel; however, he does not provide information on the types of medical issues that affect the petitioner and how these medical issues impact not only on the petitioner's ability to travel but also on his daily life. Without a more thorough assessment of the petitioner's health issues, which he claims prevent him from traveling to meet the beneficiary, the AAO cannot find that the petitioner should be exempt from the requirement of an in-person meeting between him and the beneficiary within the two-year period before the filing of the petition. Accordingly, the appeal is dismissed.

The denial of the petition is without prejudice to the filing of a new I-129F Petition on the beneficiary's behalf. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at [www.uscis.gov](http://www.uscis.gov), or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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.