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U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **JAN 22 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)

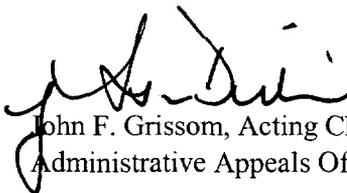
ON BEHALF OF PETITIONER:

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 sustained. The petition will be approved.

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 had failed to: (1) establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition; and (2) submit sufficient evidence that meeting the beneficiary in person would have been a hardship for him. On appeal, the petitioner provides a statement and copies of documents already included in the record.

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 January 23, 2008. Therefore, the petitioner and beneficiary were required to have met between January 23, 2006 and January 23, 2008.

In denying the petition, the director noted that the petitioner had indicated “no” to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition. The director stated that the record contained doctors’ notes indicating that the petitioner’s anxiety prevented him from flying due to the September 11<sup>th</sup> terrorist attacks and that the petitioner had other medical issues. The director stated, however, the petitioner did not present any evidence to show that he could not take a cruise ship to visit the beneficiary.

On appeal, the petitioner states that he cannot take a cruise ship because none travel between Hawaii and the Philippines. In addition, even if a cruise were an option, the petitioner states that it would be too expensive and take too long. The petitioner also submits a list of his doctors as well as their type of practice. The practices include the following: retina disease, psychiatry, internal medicine, nephrology, rheumatology; urology; respiratory disease, cardiology, and ophthalmology.

The petitioner also submits a copy of a June 18, 2008 letter from one of his physicians, [REDACTED] states that the petitioner has an anxiety disorder that prevents him from flying and that the petitioner “has a number of medical problems including a history of Myocardial Infarction, Enlarged Heart, Arteriosclerotic Heart Disease, Hypertension, Hyperlipidemia and Chronic Obstructive Pulmonary Disease, and is taking 18 different types of medication.” [REDACTED] states further, “I am medically recommending [the petitioner] not fly on an airplane because of the concern for a catastrophic medical event should he attempt the trip to the Philippines . . . .”

The petitioner also submits a copy of an August 11, 2008 letter from another physician, [REDACTED] stated that the petitioner “has some arthritis and spinal compression with a lot of pain. He is not recommend [sic] to fly long distance because of his condition.”

The petitioner has established that his health issues qualify him for an exemption. The petitioner submitted two letters from two physicians, each of whom attested to the extent and duration of the petitioner’s medical issues. There is no requirement that travel be forbidden for the petitioner; only that travel results in extreme hardship. Here, the petitioner has established that travel to any country would cause him extreme hardship, considering his medical conditions. Accordingly, the AAO withdraws the director’s decision.

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 met that burden.

**ORDER:** The appeal is sustained. The petition is approved.