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**U.S. Citizenship
and Immigration
Services**

DL

AUG 31 2005

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

WAC 04 221 53783

IN RE:

Petitioner:

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 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, Director
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 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 director denied the petition after determining that the petitioner had not offered documentation evidencing that he and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act. *Decision of the Director*, dated December 16, 2004.

Section 101(a)(15)(K) of 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 10, 2004. Therefore, the petitioner and the beneficiary were required to have met during the period that began on August 10, 2002 and ended on August 10, 2004.

In response to the director's request for evidence and additional information, the petitioner submitted *inter alia* a letter from the Four Seasons Hotels and Resorts outlining the company's vacation policy.

On appeal, the petitioner submits a letter stating that he was unable to travel during the required two-year period because he had only recently commenced new employment and had not accrued enough vacation time to make a trip to the Philippines. The petitioner indicates that he has several financial obligations that require his attention including student loan payments and paying arrears in child support. The petitioner contends that he is unable to obtain a passport for travel outside of the United States until the child support payments are satisfied. *Letter from Lon E. Sisson*, dated January 5, 2005.

Under section 214(d) of the Act, the petitioner and the beneficiary were required to have met between August 10, 2002 and August 10, 2004. Although section 214(d) of the Act requires the petitioner and the beneficiary to meet, it does not require the petitioner to travel to the beneficiary's home country. The record on appeal does not demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to the Philippines, including, but not limited to the beneficiary traveling to meet the petitioner in the United States or a bordering country.

The petitioner states that he is unable to travel due to his employment and indicates that he is unable to obtain a passport until he satisfies his child support obligations, but fails to provide information relating to the duration of this situation. The record indicates that the petitioner is able to take vacation time from his job after reaching his "anniversary date," but does not establish when this date occurred or will occur. *See Letter from Melissa F. Gamble, Four Seasons Hotels and Resorts*, dated November 2, 2004. The record fails to demonstrate the amount of child support for which the petitioner is overdue. As noted, a director looks at whether the petitioner can demonstrate the existence of circumstances that are likely to last for a considerable or indeterminate duration when considering a claim of extreme hardship. Moreover, the time and financial commitments required for travel to a foreign country are requirements common to those filing the Form I-129F petition and do not constitute extreme hardship to the petitioner.

The AAO notes that the petitioner indicates that he will provide additional documentation from Nevada State Senator Valerie Weiner and United States Senator Harry Reid concerning the application. *Letter from Lon E. Sisson*, dated January 5, 2005. Over seven months have passed since the filing of the Form I-290B appeal and no further documentation has been received in order to be considered in this decision.

The evidence of record does not establish that the petitioner and the beneficiary met as required. Taking into account the totality of the circumstances as the petitioner has presented them, the AAO does not find that compliance with the meeting requirement would result in extreme hardship to the petitioner or would violate strict and long-established customs of the beneficiary's foreign culture or social practice. Therefore, the appeal will be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.