



U.S. Department of Justice  
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



D6

DEC 5 2000

FILE: [REDACTED] Office: Nebraska Service Center Date:

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

APPLICATION: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

Public Copy

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Identifying information to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

  
Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States. The beneficiary is a native and citizen of the Philippines. The director determined that the petitioner had not established that he and the beneficiary personally met within two years prior to the petition's filing date, June 14, 1999.

On appeal, the petitioner states that it would be an extreme hardship for him to meet with the beneficiary because he has a fear of flying. He explains that he suffered a severe skull fracture and underwent brain surgery at the age of twenty. He further explains that high altitudes or flying cause him severe headaches. He provides a copy of his military medical ID card for the purpose of establishing his medical claim.

Section 101(a)(15)(K) of the Act defines a nonimmigrant in this category 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 admission, and the minor children of such fiancée or fiancé accompanying him or following to join him.

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 2 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, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person....

8 C.F.R. 214.2(k)(2) provides that as a matter of discretion, the director may exempt the petitioner from the requirement that the parties have previously met only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petition was filed with the Service on June 14, 1999. The petitioner claimed in a statement dated March 15, 2000, that his last flight caused him severe headaches ultimately confining him to

bedrest for almost three days. The petitioner has offered no documentation in support of his claim from the military or his medical provider.

In addition, flying is not the only mode of travel. Therefore, compliance with the requirement would not constitute extreme hardship.

The petitioner has failed to establish that he and the beneficiary have met personally as required, pursuant to section 214(d) of the Act. Nor has the petitioner established that he warrants a discretionary waiver of the requirement pursuant to 8 C.F.R. 214.2(k)(2).

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. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.