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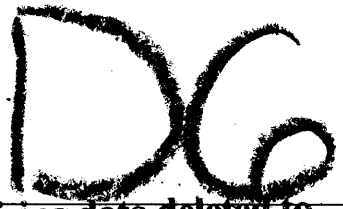

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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

[redacted]

FILE [redacted] Office: California Service Center Date: MAR 12 2003

IN RE: Petitioner: [redacted]
Beneficiary:

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

IN BEHALF OF PETITIONER: Self-represented

**PUBLIC COPY**

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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the United States. The beneficiary is a native and citizen of the Philippines. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior to the June 21, 2002, filing date of the visa petition.

On appeal, the petitioner states that persons from the Philippines require a visa to travel here. The petitioner states that the beneficiary is coming here to get married and not as a visitor or a worker. He indicates that, if the petition is approved, they will meet and marry within the 90 day period. The petitioner states that he is unable to travel due to his disability from a spinal injury and fusion of spine and surgery to his lower back. He is currently receiving disability compensation for that injury and the beneficiary was also unable to travel due to the visa requirement.

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), provides that the petitioner and the beneficiary must have met in person within two years immediately before the petition is filed.

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 burden is on the petitioner to provide satisfactory evidence that extreme hardship would be imposed on him to comply with the two-year requirement.

The record contains a letter from the Social Security Administration which states that the physicians who decided that the petitioner is disabled expect his health to improve and his case will be reviewed in April 2005. The record fails to contain any documentation specifically from a physician describing his disability in detail.

In visa petition proceedings, the burden of proof is on the petitioner to establish the beneficiary's eligibility for the benefit sought. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). Therefore, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.