U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

A6

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 29 2008

WAC 07 032 51019

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 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, 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 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 failed to establish that he and the beneficiary had met within the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act or that such a meeting would have constituted an extreme hardship or violated the customs of the beneficiary's culture or social practice. *Decision of the Director*, dated June 19, 2007.

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), 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 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 December 1, 2006. Therefore, the petitioner and the beneficiary were required to have met during the period that began on December 1, 2004 and ended on December 1, 2006.

At the time of filing, the petitioner indicated that he and the beneficiary had first met in August 1996 and on numerous occasions thereafter because he was stationed with the U.S. military in Japan. He stated that he is now stationed in California and has not seen the beneficiary for more than two years. *Attachment to Form I-129F*, undated.

On February 22, 2007, the Director requested additional documentation showing that the petitioner and beneficiary had met during the required two-year time period or that such a meeting would have constituted an extreme hardship. In response to the director's request for evidence, the petitioner submitted copies of airline boarding passes, pages from his and the beneficiary's passports showing May 2007 entry stamps for Thailand and departure cards issued to the petitioner and the beneficiary by Thai immigration authorities. The petitioner also submitted undated photographs of himself and beneficiary together. On appeal, the petitioner submits a copy of a hotel receipt from his stay in Thailand, which shows that he was in Thailand from May 18, 2007 to June 3, 2007.

While the AAO finds the petitioner to have established that he met the beneficiary in Thailand in May-June 2007, he has not complied with the meeting requirement of section 214(d) of the Act, as it relates to the instant petition. The petitioner's May 2007 trip to meet the beneficiary occurred five months after he filed the Form I-129F on behalf of the beneficiary. Therefore, although he has established that he has met the beneficiary, this meeting did not occur within the two-year time period specified above and does not satisfy section 214(d) of the Act.

At the time of filing, the petitioner indicated that the money he had been saving to travel to the Philippines in 2006 was required to pay for expenses resulting from the death of his father in March 2006. Although the AAO acknowledges the petitioner's statement regarding his father's death, it notes that the record does not contain documentary evidence to support the petitioner's claim. Going on record without supporting documentary evidence is not sufficient to meet the petitioner's burden of proof in this proceeding. *See Matter of Suffice*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Moreover, while section 214(d) of the Act requires the petitioner and beneficiary to meet during the two-year period prior to the filing of the Form I-129F, it does not stipulate that the meeting take place in the beneficiary's home country. The record on appeal does not, however, demonstrate that the petitioner and the beneficiary explored options for a meeting beyond the petitioner traveling to the Philippines, including the beneficiary traveling to meet the petitioner in the United States. Therefore, the appeal will be dismissed.

The denial of the petition is without prejudice. As the petitioner and beneficiary have met, he may file a new I-129F petition on the beneficiary's behalf so that a new two-year meeting period will apply.

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.