



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF G-M-

DATE: NOV. 23, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a fiancée of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition and we dismissed a subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. The motion will be denied.

The Director denied the nonimmigrant visa petition because the Petitioner did not establish that he and the Beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e), or that he qualified for an exemption from such requirement.

On appeal, the Petitioner submitted a copy of his U.S. passport, travel itinerary and other documents that established that he and the Petitioner met in June 2014, but no evidence of their meeting two year prior to the filing of the petition. We dismissed the appeal. We also noted that the Petitioner and the Beneficiary may not be legally able to conclude a valid marriage within 90 days of the Beneficiary's admission into the United States because the Petitioner referred the Beneficiary as his wife and further stated that after their engagement, they exchanged wedding bands and went on a short honeymoon.

The regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen "state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence." The regulation at 8 C.F.R. § 103.5(a)(3) requires that a motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Service (USCIS) policy ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. On motion, the Petitioner submits additional evidence.

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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

(b)(6)

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after the alien's arrival except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement 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 K-1 beneficiary's foreign culture or social practice . . . Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

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.

On motion, the Petitioner acknowledged that he and the Beneficiary did not meet within the two-year period before he filed the petition. The Petitioner states that he was introduced to the Beneficiary in April 2013. At that time he was caring for his spouse, who later died in [REDACTED] 2013. The Petitioner claims that after the death of his spouse, he was not able to travel to Vietnam to meet the Beneficiary in person due to financial hardship. The record shows that the Petitioner and the Beneficiary subsequently met in June 2014, but their meeting fell outside the two-year period preceding the filing of the petition. The evidence of the couple's meeting in June 2014 would be relevant to a new fiancé(e) petition that the Petitioner may file for the Beneficiary in the future, but it has no relevance to whether the couple met during the period applicable to this petition. The Petitioner does not provide any evidence to substantiate his claim that he was unable to travel to Vietnam before June 2014 due to financial hardship. The Petitioner does not submit any evidence to establish that meeting the Beneficiary within the two years preceding the filing of the petition would have resulted in extreme hardship.

On motion, the Petitioner requests a waiver of the two-year meeting requirement because it is against his and the Beneficiary's religious beliefs to meet and stay together without other family members present prior to their official engagement ceremony. As stated above, the director may exempt the petitioner from the two-year meeting requirement 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 K-1 beneficiary's foreign culture or social practice. The Petitioner does not provide a

detailed statement, affidavits from religious officials, or other documentation to establish how the couple's meeting would violate "strict and long-standing" customs of the Beneficiary's culture or social practice. The Petitioner's statement alone does not establish 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. We further note that although the Petitioner claims that meeting and staying together without other family members present would violate his and the Beneficiary's religious beliefs, section 214(d)(1) of the Act only requires that the Petitioner and Beneficiary meet but does not specify the circumstances, and this meeting may take place in the presence of family members or other individuals.

The Petitioner has not established that he merits a favorable exercise of discretion to exempt him from the meeting requirement under section 214(d)(1) of the Act and the regulations at 8 C.F.R. § 214.2(k)(2). The Petitioner has not provided evidence to overcome the grounds of our prior decision. The motion will therefore be denied on the grounds that the Petitioner and the Beneficiary did not meet within the two years preceding the filing of the petition and did not qualify for an exemption of the requirement.

On motion, the Petitioner also states that he and the Beneficiary are not legally married and are consenting to marry each other once the Beneficiary arrives in the United States. The Petitioner submits a copy of a "Letter of Engagement" and a copy of an "Engagement Certificate" as evidence that he and the Beneficiary are not legally married. The engagement certificate indicates that the Petitioner and the Beneficiary are culturally engaged but are not married yet. The letter of engagement issued by the chief of the village indicates that the Petitioner and the Beneficiary are engaged with the consent of parents and relatives from both sides.

Based on the evidence submitted on motion, it does not appear that the Petitioner and the Beneficiary are married for immigration purposes. The letter of engagement and the certificate of engagement submitted on motion indicate that the couple was engaged but not legally married. The record does not contain a marriage certificate indicating that the Petitioner and the Beneficiary are legally married.

Although it appears that the Petitioner and Beneficiary are legally able to conclude a valid marriage within 90 days of the Beneficiary's admission into the United States, the Petitioner has not established that he and the Beneficiary met within the two-year period immediately preceding the filing of the petition or that he is exempt from such meeting requirement. The Petitioner has not overcome the basis of the Director's decision to deny the petition and our prior decision to dismiss the appeal.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the Petitioner has not met that burden.

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**ORDER:** The motion to reopen is denied.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of G-M-*, ID# 13664 (AAO Nov. 23, 2015)