



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

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

MATTER OF N-F-I-

DATE: FEB. 14, 2017

CERTIFICATION OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, who is a U.S. citizen, seeks to classify the Beneficiary as her fiancé. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) (and that person's children) to the United States in K nonimmigrant visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within 2 years before the date of filing the Form I-129F, Petition for Alien Fiancé(e), have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within 90 days of a beneficiary's admission as a K nonimmigrant.

The Director, California Service Center, denied the petition, concluding that the Petitioner did not demonstrate she met the Beneficiary during the 2-year period immediately before she filed the petition, or she was legally able to marry the Beneficiary.¹ The matter is now before us on appeal.

On appeal, the Petitioner submits a letter, a divorce decree, and partial copies of U.S. passports for her and her son. She indicates that she is legally able to marry the Beneficiary because she is divorced from her former spouse. She further states that she and her son traveled to Nigeria to meet the Beneficiary in November 2015.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Subject to subsections (d) and (r) of section 214 of the Act, 8 U.S.C. § 1184(d) and (r), nonimmigrant K classification may be accorded to an individual who "is the fiancee or fiance 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" *See* section 101(a)(15)(K)(i) of the Act.

¹ In addition, the Director noted that the Beneficiary "has a lengthy history of immigration fraud," including filing a fraudulent asylum application under section 208 of the Act, 8 U.S.C. § 1158, and entering into a marriage with a U.S. citizen solely for immigration purposes.

Subsection 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if the petitioner establishes 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 90 days after the beneficiary's arrival. U.S. Citizenship and Immigration Services maintains the discretion to waive the requirement of an in-person meeting between the two parties if compliance would either result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *See* subsection 214(d)(1) of the Act; 8 C.F.R. § 214.2(k)(2).

II. ANALYSIS

While the Petitioner's divorce decree shows that she is legally able to marry the Beneficiary, she has not satisfied the in-person meeting requirement. She filed the fiancé(e) petition on December 12, 2014, and was therefore required to have met the Beneficiary in person between December 12, 2012, and December 12, 2014, or to have been granted a waiver of this requirement.

As the Director discussed in her decision, the Petitioner has submitted two altered photographs as evidence of her in-person meeting with the Beneficiary. The undated color photographs appear to have been generated using photo manipulation software, which superimposed individual pictures of the parties on to different backgrounds. As such, this evidence does not credibly show that the Petitioner met the Beneficiary in person, or that a meeting occurred during the relevant 2-year period immediately before she filed the petition. On appeal, the Petitioner has not challenged this aspect of the Director's finding.

Instead, on appeal, the Petitioner provides a partial copy of her passport, showing that she visited Nigeria, the Beneficiary's country of residence, in November 2015. She also presents additional photographs of her and the Beneficiary; each photograph has a "08/05/2016" notation printed on the back. In addition, she submits a partial copy of her son's U.S. passport and a letter from him, stating that he accompanied her to Nigeria and met the Beneficiary in 2015. A 2015 meeting, however, does not demonstrate the Petitioner's eligibility for the petition. Specifically, the Act requires that the parties have met in person within 2 years before the filing of the petition, which for this case was between December 12, 2012, and December 12, 2014. The Petitioner has not established that she and the Beneficiary met in person during this time frame.

The Petitioner has not shown that she met the Beneficiary in person during the relevant 2-year period. In addition, she has not submitted any evidence demonstrating that we should grant her a discretionary waiver of this requirement. She has not established that satisfying this requirement would have caused her extreme hardship or violated the Beneficiary's custom, social practice, or religion.

Finally, the Petitioner has not submitted a passport-style color photograph of herself taken within 30 days of the filing of the petition. This evidence is required under the filing instructions of the

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petition. See 8 C.F.R. §§ 103.2(a)(1) (A form's instructions are "incorporated into the regulations requiring its submission.").

III. CONCLUSION

As the Petitioner has not established that she met the Beneficiary within 2 years of the filing of the petition, nor has she submitted a passport-style color photograph of herself, she has not met the eligibility requirements for this immigration benefit.

ORDER: The appeal is dismissed.

Cite as *Matter of N-F-I-*, ID# 173969 (AAO Feb. 14, 2017)