



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

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

In Re: 10400046

Date: OCT. 23, 2020

Appeal of California Service Center Decision

Form I-192F- Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks classification of the Beneficiary under section 101(a)(15)(K)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i). The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), concluding that the Petitioner did not submit sufficient evidence demonstrating that the parties personally met within the two-year period immediately preceding the filing of the petition or that she merits a discretionary waiver of the personal meeting requirement. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 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 two years before the date of filing the fiancé(e) 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 90 days after the beneficiary's arrival. U.S. Citizenship and Immigration Services (USCIS) 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. *Id.*; 8 C.F.R. § 214.2(k)(2).

A petitioner must establish that he or she meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The Petitioner filed the fiancé(e) petition on September 21, 2018, and was therefore required to have met the Beneficiary in person between September 21, 2016, and September 21, 2018, or to have requested a waiver of this requirement. In Part 2 of the fiancé(e) petition, the Petitioner checked "No" in response to the question regarding whether she had met the Beneficiary during the required two-year period. The Petitioner provided a supplemental explanation stating that she had "complex

medical problems” that prevented her from leaving the United States, that she could not leave her minor children alone, and that she feared going to Iraq, the Beneficiary’s country of nationality, with her children because “the law give [*sic*] the grandparents the right to keep the kids in Iraq.” In an affidavit submitted with her petition, the Petitioner explained that she had cancer and could not leave due to “frequent doctor appointments and treatments,” that she did not have relatives in the United States to support her family, and that she feared that the parents of her children’s father would take her children away from her if she took the children with her to Iraq. The Petitioner further submitted a September 2018 medical record stating that her history of present illness included diabetes, hypertension, hyperlipidemia, history of peptic ulcer disease, hypothyroid, abdominal pain, history of thyroid cancer, and anemia.

In response to a request for evidence (RFE) from the Director, the Petitioner provided a letter from her physician stating that the Petitioner suffered from “multiple health conditions that include obstructive sleep apnea, diabetes, hypertension, and hypothyroidism.” The letter further stated that “[d]ue to instable conditions it lead [*sic*] to decrease in cognitive abilities, lack of concentration, and memory problems.” The Petitioner also provided additional records of medical visits during the two-year period after filing the fiancé(e) petition, copies of text messages between herself and the Beneficiary, and letters from her children describing her positive relationship with the Beneficiary.

The Director denied the fiancé(e) petition, finding that the Petitioner had not demonstrated that she met the in-person meeting requirement or established her eligibility for a waiver. With regard to the waiver, the Director noted that the Petitioner had not explained what would happen to her if she were to board an aircraft and had not submitted evidence to show that she sought alternative means of travel, such as by land, to meet the Beneficiary in either Canada or Mexico.

On appeal, the Petitioner provides a September 2019 letter from her physician stating that she is “currently being seen every one to two months,” listing her medications, and explaining that “[s]ome of her medications have side effects that affect her ability to move, sand [*sic*] up, and/or function on her own without the ability of others.” The letter additionally explains that from September 2016 through September 2018, “there were possible risks to [the Petitioner’s] health if she were to travel on a plane while she [was] getting treatment. Travel by land not plausible due to multiple complicated medical problems.” The Petitioner also submits a copy of an unsigned and undated letter¹ to an unnamed applicant from the U.S. Consul General, Nonimmigrant Visa Unit, [redacted] Iraq, denying an application for a nonimmigrant visa due to the inability to establish nonimmigrant intent.

The Petitioner, through counsel, asserts that she should be granted a waiver because she would have suffered extreme hardship if she had to travel abroad to meet the Beneficiary during the requisite two-year period, as she was consistently in and out of the hospital and would have had to travel to Iraq immediately after thyroid surgery, while she was receiving chemotherapy. Petitioner’s counsel claims that Iraq is not medically equipped to handle an individual in the Petitioner’s state and that she would have been putting herself in grave danger if she risked visiting Iraq even for a short time. Petitioner’s

¹ The letter contains the date “Aug 13, 2013 (A)” at the bottom of the document; the significance of this date is unclear from the record, as it is not within the requisite two-year period.

counsel further maintains that the Beneficiary unsuccessfully attempted to obtain visitor visas to visit the Petitioner in the United States and Canada but was denied.

Although we acknowledge these claims, the Petitioner has not overcome the Director's determination that she had not established her eligibility for a waiver of the in-person meeting requirement. First, the Petitioner has not specifically explained the challenges that air and land travel—either to Iraq or to a third country—pose for her, or provided evidence of her inability to obtain medical care in Iraq, as the letters from her physician lack detail and the assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988). In addition, the record contains insufficient evidence of the Beneficiary's attempts to travel to the United States or Canada to meet the Petitioner, as the letter from the U.S. Consul General in [] Iraq does not name the Beneficiary or provide the date of the decision, and the Petitioner has provided no evidence of the Beneficiary's efforts to obtain a visa to visit Canada.

To summarize, the Petitioner has not established that the parties have previously met in person within two years before the date of filing the fiancé(e) petition, or that compliance with the in-person meeting requirement would result in extreme hardship to her,² such that she merits a discretionary waiver of the requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). We note, however, that the denial of this petition is without prejudice to the filing of another fiancé(e) petition at a future date once the statutory requirements are met.

ORDER: The appeal is dismissed.

² The Petitioner has not asserted or shown that an in-person meeting between the parties would violate strict and long-established customs of the Beneficiary's foreign culture or social practice.