



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

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

In Re: 18488056

Date: OCT. 29, 2021

Appeal of a California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks the Beneficiary's admission to the United States under the fiancé(e) visa classification. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i) (the "K-1" visa classification). A U.S. citizen may petition to bring a fiancé(e) to the United States in K-1 status for marriage.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not provide sufficient evidence of an in-person meeting with the Beneficiary during the two-year period prior to filing the petition or that he merits a discretionary waiver of the personal meeting requirement. On appeal, the Petitioner submits additional evidence to establish that the parties met within the required two-year period.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand the petition for further action.

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).

The regulations require a petitioner to establish to the satisfaction of the Director that the petitioner and beneficiary have met in person within the two-year period immediately preceding the filing of the petition. As a matter of discretion, the Director may exempt a petitioner from this requirement 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 a beneficiary's foreign culture or social practice. Failure to establish that a petitioner and beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. 8 C.F.R. § 214.2(k)(2). An applicant or petitioner must establish that she or he is eligible for the requested benefit at the time of filing the application or petition. 8 C.F.R. § 103.2(b)(1).

II. ANALYSIS

The Petitioner filed the fiancé(e) petition on January 3, 2020 and did not seek a waiver of the two-year in person meeting requirement. Instead, he submitted evidence that he and the Beneficiary lived and spent time together prior to the Beneficiary's last departure from the U.S. on January 27, 2018. The Director issued a request for evidence (RFE), requesting, among other things, evidence establishing compliance with the two-year in-person meeting requirement. In response, the Petitioner submitted photographs taken with the Beneficiary, as well as affidavits to establish that the parties have been in a long-term relationship, that the parties lived together, and that the Petitioner was with the Beneficiary on January 27, 2018 because he accompanied her to the airport when she last left the U.S. The Petitioner also provided a letter from his treating physician describing depression and other health challenges he has suffered from because he is not able to be with and marry the Beneficiary.

The Director denied the petition, stating that “[n]o documentary evidence was submitted to establish you and the beneficiary had personally met within the two-year period immediately prior to the filing of the petition. However, you claim that a personal meeting would result in extreme hardship.” The instant appeal follows the Director's denial. On appeal, the Petitioner submits an additional affidavit to establish his satisfaction of the two-year in person meeting requirement.

To begin, we find no evidence in the record requesting an extreme hardship exemption to the two-year in person meeting requirement. On the Form I-129F, the Petitioner does not request an exemption. Though the Petitioner submitted a statement from his treating physician stating that he suffers from depression and other symptoms due to his separation from his fiancé, the physician's letter does not explicitly support or request an exemption of the two-year meeting requirement, either. Aside from the Director's error, we disagree with the Director's analysis of the evidence and conclude that when viewed in its totality, the record is sufficient to establish that, more likely than not, the parties did meet during the relevant two-year period (January 3, 2018 to January 3, 2020). In particular, numerous credible affidavits provide compelling details to establish that the parties lived together and spent time together in New Jersey during the period before the Beneficiary's departure. The affidavits also corroborate the Petitioner's statements that he has been in a long-term relationship with the Beneficiary. In addition, while certainly not alone dispositive, the photographic evidence does support his claim. Finally, government records corroborate the Petitioner's statements that the Beneficiary departed the United States on January 27, 2018 from Airport in New Jersey, which is the Petitioner's state of residence.

If considered individually, each piece of evidence likely would have been insufficient to carry the Petitioner's burden. However, all of it is credible, and in this particular case we conclude that when it is all considered collectively, it is sufficient to establish that, more likely than not, the Petitioner and Beneficiary did personally meet one another prior to her departure. *See Chawathe*, 25 I&N Dec. at 375.

As such, we will withdraw the decision and remand the matter so that the Director may determine whether the Petitioner has satisfied all other remaining eligibility requirements.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.