



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

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

In Re: 21761918

Date: AUG. 04, 2022

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as her fiancé. 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 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 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 90 days of admission.

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner and Beneficiary met in person within two years of the filing date of the petition. The Director further found that the record did not establish that compliance with the two-year meeting requirement would result in extreme hardship to the Petitioner.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will remand the matter for the entry of a new decision.

I. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if, among other requirements, a petitioner establishes that the parties have previously met in person within two years before the filing date of the fiancé(e) petition.

As a matter of discretion, U.S. Citizenship and Immigration Services may exempt a petitioner from this requirement only if the petitioner establishes that compliance would result in extreme hardship to them or if compliance would violate strict and long-established customs of a beneficiary's foreign culture or social practice. Failure to establish that the parties have met in person within the required period or that the requirement should be waived shall result in denial of the petition. 8 C.F.R. § 214.2(k)(2).

II. ANALYSIS

A. In-Person Meeting Requirement

Since the Petitioner does not assert that she and the Beneficiary have met in person, the issue on appeal is whether the Petitioner has established that she merits a discretionary waiver of the in-person meeting requirement. In the petition, the Petitioner requested such a waiver, stating that travelling to the Beneficiary's home country of Nigeria would cause her extreme hardship due to having a blood clotting disorder and multiple sclerosis, which would make extended travel painful and dangerous. To support this claim, she provided a letter from [REDACTED] which stated that the Petitioner had "several medical conditions which would be made worse with prolonged travel."

The Director of the California Service Center issued a request for evidence (RFE) requesting, among other things, further documentation of why the Petitioner should receive a waiver of the in-person meeting requirement. In response, the Petitioner provided a letter stating that that staying immobile for extended periods of time could cause her painful lymphedema, and that Nigeria would not have adequate medical care for her multiple chronic conditions. Additionally, the letter stated that travel would cause her financial hardship due to being on a fixed income with high expenses and needing to rent a handicapped van at her destination for her power wheelchair. Finally, the Petitioner stated that her father is incapacitated and she holds his medical power of attorney, making travel inadvisable for her. To support these claims, she provided documents relating to her father's incapacity, medical records, records of her Social Security and employer disability income, and a Bitcoin trading history.

The Director of the California Service Center denied the petition, finding that the evidence provided did not suffice to demonstrate eligibility for the discretionary waiver of the in-person meeting requirement. On appeal, the Petitioner submits another statement regarding the hardships that she would undergo if she had to meet the Beneficiary in person, as well as another letter from [REDACTED]

The underlying petition in this case was filed on July 21, 2020, so the relevant two-year period during which the Petitioner and Beneficiary were required to meet in person began on July 22, 2018. The documents relating to the Petitioner's father state that he granted her his medical power of attorney in October 2020 and was declared incapacitated in November 2020, after the petition was filed. Therefore, the evidence indicates that this issue arose after the relevant two-year period ended and does not pertain to the Petitioner's eligibility for a waiver.

Furthermore, while the Petitioner submitted evidence of her income, she did not provide documentation of her expenses during the relevant two-year period apart from the health insurance deductions made from her Social Security disability payments. We acknowledge the Petitioner's statement that her income is limited and that the expense of travelling to Nigeria¹ would be high. However, the record does not suffice to establish her overall financial situation or the scope of those expenses, and so it is not possible to determine whether travelling to meet the Beneficiary would cause her financial hardship.

¹ It is noted that the Petitioner does not address the financial impact of meeting the Beneficiary in a third country.

We acknowledge the Petitioner's statement that the Beneficiary attempted to apply for a visa to visit the United States and was denied. However, the Petitioner did not provide any documentation to support this claim, and USCIS records do not indicate that the Beneficiary applied for such a visa.

However, the letter from [REDACTED] that was submitted on appeal is material to the Petitioner's claims of medical hardship. Therefore, we will remand the matter so the Director can consider it in the first instance and determine whether the Petitioner has established her eligibility for a discretionary waiver of the in-person meeting requirement.

B. Bona Fide Intent to Marry

Beyond the decision of the Director, on remand, the Director should determine whether the record establishes the Beneficiary's *bona fide* intention to marry the Petitioner within 90 days of his admission to the United States, as required by section 214(d)(2) of the Act. With her initial evidence, the Petitioner submitted a statement about how she and the Beneficiary met and a few photographs of the Beneficiary. In response to the Director's RFE, she provided letters from herself, her daughter, her friend, and the Beneficiary's pastor, as well as a Bitcoin trading history.

The Petitioner states that she met the Beneficiary through LinkedIn on an unspecified date and that they have continued communicating through other social networking platforms, but the petition contains no documentation of any direct communication between them. The letter from the Beneficiary's pastor only states that the Beneficiary is a good man and that the pastor supports his relationship with the Petitioner. The letters from the Petitioner's friend and daughter indicate that they are aware of the relationship between the parties but do not speak to the Beneficiary's intention to marry the Petitioner. While the Petitioner indicates that she financially supports the Beneficiary and his family, the Bitcoin trading history provided has no information about who the funds belonged to or where they were transmitted. The record also does not contain any statement from the Beneficiary about the relationship or his intention to marry the Petitioner.

In the absence of a statement from the Beneficiary regarding his intention to marry the Petitioner within the requisite timeframe, or other credible evidence indicative of the same, it is not apparent that the Petitioner has met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

III. CONCLUSION

The matter will be remanded to the Director to consider all the evidence and enter a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issue.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.