



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

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

In Re: 23033694

Date: DEC. 19, 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 his fiancée. 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 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 in the two years preceding the filing of the petition, or that they qualified for an exemption from this requirement.

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 sustain the appeal.

I. LAW

In order to classify a beneficiary as their fiancée, a petitioner must establish, among other things, that both parties have met in person in the two years preceding the date of filing the petition. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

II. ANALYSIS

The sole issue on appeal is whether the Petitioner and Beneficiary complied with the in-person meeting requirement. The underlying Form I-129F, Petition for Alien Fiancé(e), was filed on August 21, 2020. Therefore, the parties were required to meet in person between August 21, 2018, and August 20, 2020.

In the initial petition, the Petitioner stated that he and the Beneficiary had been a couple since 2018 and that they lived together in Venezuela before he returned to the United States in 2019. To support this claim, he provided photographs of him and the Beneficiary together with dates and descriptions written on the back. The Director issued two requests for evidence (RFEs) requesting, among other

things, further evidence that the Petitioner and Beneficiary complied with the in-person meeting requirement.

In response, the Petitioner provided affidavits, scans of passports, screen captures of chats and social media posts, and photographs with added dates and descriptions. The Director denied the petition, finding that since the affiants did not state they witnessed the parties together during the relevant period, the annotated photographs and social media posts were insufficient to demonstrate eligibility.

On appeal, the Petitioner provides a letter restating the claim that he lived with the Beneficiary in Venezuela until he moved back to the United States in November 2019, as well as travel documents, affidavits, chat logs, and photographs relating to a meeting in 2021.

Section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2) require the Petitioner and Beneficiary to meet in person in the two years preceding the filing of the petition. Furthermore, petitioners must establish that they are eligible for the requested benefit at the time of filing. 8 C.F.R. § 103.2(b)(1). As noted above, the underlying petition was filed in 2020. Therefore, the Petitioner's 2021 travel cannot establish eligibility in this case.

However, the claimed time in Venezuela when the parties met and lived together, from February 2018 through November 2019, does overlap with the qualifying two-year period. Furthermore, contrary to the Director's findings, the translated affidavits submitted with the underlying petition state that the affiants witnessed the parties together during the relevant two-year period. The affidavits from four of the Petitioner's friends state that the parties shared an address in Venezuela. The record also contains affidavits from two of the parties' neighbors attesting to the same. Finally, the affidavit from the Petitioner's mother specifically states that the parties lived in an annex of her house starting in June 2018.

The affidavits, in combination with the extensive photographs and social media evidence provided, establish by a preponderance of the evidence that the parties met in person in the two years preceding the filing of the petition. Since the only ground of denial has been overcome, we will withdraw the Director's decision and sustain the appeal.

ORDER: The appeal is sustained.