



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

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

In Re: 23877391

Date: DEC. 22, 2022

Appeal of California Service Center Decision

Form I-129, 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 fiancé(e) petition, concluding that the Petitioner did not submit evidence demonstrating that the parties personally met within the two-year period immediately preceding the filing of the petition or that the Petitioner merits a discretionary waiver of the personal meeting requirement.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in 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 dismiss the appeal.

## I. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if a 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 a beneficiary's arrival.

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 years immediately preceding the filing of the petition. As a matter of discretion, the Director may exempt a petitioner from this requirement only 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 October 6, 2020. As such, the relevant period during which he must establish he and the Beneficiary met is between October 5, 2018 and October 5, 2020. In response to the petition's questions concerning whether he and his fiancée met in person during the relevant two-year period, the Petitioner wrote (in verbatim):

I had flights booked, tickets purchased to fly to [visit the Beneficiary] on 3/21/2020, 1 week before departure, all flights cancelled due to COVID-19. I have made 2 more attempts only to have tickets boarding passes cancelled due to quarantine status changes in [ ] and [ ] 3 engagement dates and ceremonies have been cancelled and re-scheduled.

The Director issued a request for evidence (RFE) explaining, among other things, that the Petitioner had not satisfied the two-year meeting requirement, and providing him an opportunity to submit relevant evidence. In his RFE response, the Petitioner requested a hardship waiver because of COVID-19 pandemic travel restrictions and explained that due to his age and health, travel during COVID-19 was too dangerous. The Director denied the petition finding the evidence insufficient to determine the individual consequences and risk factors the Petitioner and Beneficiary would have faced had they attempted to meet during the two-year period.

The Petitioner then filed a motion to reconsider, and provided more evidence of his health status. The Director denied the motion to reconsider finding the evidence was still insufficient to establish an extreme hardship exemption to the two-year personal meeting requirement.

On appeal, the Petitioner reiterates that he did not meet the Beneficiary during the required two-year period because of COVID-19 travel restrictions and his health concerns. However, during the pendency of his appeal, the Petitioner supplemented the record to include evidence that he traveled to the Philippines to meet the Beneficiary. We acknowledge that this evidence establishes he and the Beneficiary met in person during the period between late September and October 2022. However, because the statutory and regulatory requirement of meeting within the two-year period prior to filing the petition has not been met, and the Petitioner has not established that satisfying this requirement would cause him extreme hardship, his petition remains denied. Indeed, the fact that he has recently traveled to the Philippines undermines his medical hardship claims because he is able and willing to travel. Furthermore, although COVID-19 restrictions did cause significant worldwide travel disruptions, the two-year period at issue began in October 2018 and COVID-19 travel restrictions did not commence until early 2020. As such, the majority of the two-year period was not affected by COVID-19 travel disruptions. In visa petition proceedings, it is a petitioner's duty to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Brantigan*, 11 I&N Dec. 493, 495 (BIA 1966).

The denial of this petition shall be without prejudice to the filing of a new fiancé(e) visa petition.

**ORDER:** The appeal is dismissed.