



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

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

In Re: 20439726

Date: MAR. 14, 2022

Appeal of 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).

The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), concluding that the Petitioner has not met the Beneficiary in person or that he merits a discretionary waiver of the personal meeting requirement. On appeal, the Petitioner provides an additional statement.

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 dismiss the appeal.

## I. LAW

Section 214(d)(1), 8 U.S.C. § 1184, 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 issue on appeal is whether the Petitioner warrants a favorable exercise in discretion to waive the two year in-person meeting requirement due to extreme hardship.

The Director denied the petition, deciding that the Petitioner neither met the two year in-person meeting requirement nor warranted a favorable exercise in discretion to waive that requirement due to extreme hardship on the part of the Petitioner. The Director noted that the Petitioner and the Beneficiary had not provided evidence that they had exhausted all attempts to meet in person at a location that would not be extreme hardship, such as the Beneficiary traveling to the United States or a neighboring country so that the Petitioner could meet her in person.

On appeal, the Petitioner provides an additional statement asserting that the Director erred, as the Petitioner lives in Tennessee, and the journey to either Mexico or Canada is too far for the Petitioner to drive without experiencing unbearable pain.

Aside from a four-sentence letter from the Petitioner's physician which stated that the Petitioner cannot to travel by air because he is unable to sit for prolonged periods due to his history of back injuries and surgeries, no other documentation of the Petitioner's medical conditions has been submitted. While the physician states that the Petitioner cannot remain seated for extended periods of time, the duration is not specified. In the statement accompanying the appeal, the Petitioner claims he cannot remain seated for more than two hours, but this specific claim is not supported by evidence and he does not describe the medical conditions that underly this difficulty. While the total driving time to either land border of the United States is close to the duration of a trip to the Beneficiary by plane, the record does not establish whether stops can be arranged on such a drive so that the Petitioner would not be required to remain seated for longer than two hours at a time. While it may be possible that such an itinerary would result in some form of hardship for the Petitioner, the record does not describe the hardship.

Further, the Director noted that there is no evidence that efforts were made to meet the two year in-person meeting requirement via the Beneficiary visiting the Petitioner in the United States. We concur with this observation, and the appeal does not address it. As such, while we are sympathetic to the Petitioner's medical condition, we agree that the Petitioner does not warrant a discretionary waiver of the two year in-person meeting requirement due to extreme hardship, and thus has not met the requirements necessary for approval of the petition.

**ORDER:** The appeal is dismissed.