



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

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

In Re: 20582973

Date: MAR. 22. 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). 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 Form I-129F, Petition for Alien Fiancé(e) (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 submitted sufficient evidence to establish he merits a discretionary exemption 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 withdraw the Director's decision and remand the matter for further action.

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 this fiancée petition in March 2020. On his Form I-129F, he indicated that he and his fiancée had not met in person during the two years immediately before filing this petition. He also provided a personal statement requesting an extreme hardship exemption to the two-year personal meeting requirement because of his health-related concerns regarding travel to the Philippines. The Director issued a request for additional evidence (RFE) requesting, among other things, evidence that the parties had met during the period between March 20, 2018 and March 20, 2020, or evidence that if they did not meet during this two-year period, evidence that compliance with the two-year personal meeting requirement would result in extreme hardship, or violate strict and long-established customs of the Beneficiary's foreign culture or social practice.

In response to the Director's RFE, the Petitioner submitted another personal statement explaining the hardship he would face in traveling to the Philippines to meet the Beneficiary because of his heart, lung, and stomach issues, and concerns about contracting COVID-19. He also submitted a letter from friends who attested to the difficulty of traveling to the Philippines, and he resubmitted a letter from each of his three treating physicians. The Director denied the petition, concluding that the Petitioner provided insufficient evidence to establish he merited a discretionary exemption from the two-year personal meeting requirement.

On appeal, the Petitioner provides a statement explaining why he believes the Director erred in determining the evidence of his health issues and the arduous nature of a trip to the Beneficiary's home country was insufficient to establish his burden for an extreme hardship exemption. We agree with the Petitioner that the evidence he provided is sufficient evidence to establish he would experience extreme hardship if he were required to travel to meet the Beneficiary. In particular, the letters from his three treating physicians outline the serious nature of his medical issues, and why travel, particularly during a time when he might contract COVID-19, could be particularly harmful. The Director's decision will therefore be withdrawn as the Petitioner has demonstrated his eligibility for the extreme hardship exemption to the two-year personal meeting requirement.

That said, the record as it currently stands is not sufficient to permit the petition's approval. As evidence of the parties' mutual intent to marry each other within 90 days of the Beneficiary's admission into the United States, the Petitioner submitted the fiancée petition, a personal statement of his intent to marry the Beneficiary, and that he communicates with her by phone and text, a letter from the Beneficiary's mother stating that she has had many conversations with the Petitioner and that she has gotten to know him very well, a brief statement from the Beneficiary stating she intends to marry the Petitioner within 90 days of entering the United States, and a letter from the Petitioner's son stating that he supports his father's marriage to the Beneficiary because she will assist him in his medical care as well as helping his grandmother, who is elderly and in poor health. Also, in a December 20, 2019 statement the Petitioner writes "I m [*sic*] desperately in need of my fiancée, to help me in my daily activities and take me to my doctor and hospital appointments."

This evidence appears insufficient to establish the mutual intent of the parties to enter into a *bona fide* marriage. The record as presently constituted indicates that the Petitioner is attempting to bring the Beneficiary to the United States to take care of him and his elderly mother because of their multiple health care challenges. The letter provided by the Beneficiary is very short, and vague, regarding her personal knowledge of the Petitioner's health care challenges, and the fact that he is interested in bringing her to the United States to care for him and his elderly mother. Furthermore, although the Beneficiary's mother provides a statement that explains she knows the Petitioner has a medical condition that prevents him from traveling to meet the Beneficiary in the Philippines, she does not acknowledge that her daughter is being brought to the United States to marry the Petitioner in order to care for him and his elderly mother. The Petitioner's son's statement also explains that he is in support of the marriage between his father and the Beneficiary because his father and grandmother need support due to their health care and age-related challenges. In total, the evidence appears insufficient to establish a *bona fide* intent to marry. For instance, there is no direct evidence of any communications between the Petitioner and the Beneficiary. Furthermore, while a marriage necessarily requires the parties to care for each other, the evidence of record suggests that the only reason the Petitioner plans to bring the Beneficiary to the United States as his wife is to have her care for him and his mother. Therefore, the intent of the parties does not appear to align with the purposes of a fiancée visa.

III. CONCLUSION

The evidence of record is sufficient to overcome the single ground stated in the Director's decision denying the petition. However, it is not sufficient to satisfy the remaining eligibility requirements. The matter will therefore 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. We express no opinion regarding the ultimate resolution of this case on remand.

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.