



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

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

In Re: 22064752

Date: NOV. 10, 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 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 September 14, 2020. As such, the relevant period during which he must establish he and the Beneficiary met is between September 14, 2018 and September 14, 2020. In his initial filing, the Petitioner answered question 53 on the Form I-129F, which asks whether he and his fiancée met in person during the relevant two-year period, in the affirmative. In response to question 54, he explained how he met the Beneficiary on-line shortly before he was deployed with the U.S. military to Bahrain. The Beneficiary then joined him in Bahrain, and they spent considerable time there together. Their last day together in Bahrain was September 12, 2018 because on that date, the Beneficiary returned to Thailand. Since that date, the parties have not seen each other but have maintained their relationship through social media applications like WhatsApp.

The Director issued a request for evidence (RFE) explaining 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 explained that upon returning to the United States from Bahrain, he initially moved to Virginia and stayed there until May 2019. He explains that in August 2019, the Beneficiary applied for a tourist visa at the U.S. consulate in Thailand but that because she expressed an intent to marry the Petitioner upon entering the U.S., the consulate denied her tourist visa application. The Petitioner then explains that he was referred to a company in Wyoming for help with processing the Beneficiary's fiancée visa and that he started the process with them. However, because of COVID-19, his job did not permit travel "outside of 100 miles unless you live in the state of Alabama." He explained that he found out about the two-year meeting requirement, but that his job did not permit him to take leave to travel far away, and in Thailand, he would be required to quarantine for two weeks upon arrival, and an additional two weeks upon returning to the United States. He requested a discretionary exemption of the two-year meeting requirement because of COVID-19 travel restrictions, and his 21 years of U.S. military service.

The Director denied the petition finding the evidence insufficient to establish that an in-person meeting had taken place during the relevant two-year period immediately preceding the filing of the petition or that the Petitioner had established that he merited an extreme hardship discretionary exemption. In particular, the Director determined that the Petitioner's evidence established the parties had met multiple times before the two-year meeting period, but not within the two-year meeting period, as required by the statute and regulations. The Director also determined that the Petitioner's request for a discretionary waiver was not based on any specific claim of extreme hardship because he described the common hardships of travel such as the need to take time off from work, which affects all petitioners. The Director similarly found that COVID-19 travel restrictions were not sufficient to establish an extreme hardship exemption because the restrictions affect everyone. We agree with the Director that the Petitioner did not establish he would suffer extreme hardship if he were to comply with the two-year in person meeting requirement, or that he merited a discretionary waiver.

On appeal, the Petitioner reiterates that he did not meet the Beneficiary during the required two-year period. He submits a doctor's letter dated November 12, 2021 stating that he has medical conditions that make it difficult for him to travel. Specifically, the letter explains he has been receiving treatment for diabetes, hypertension, and hyperlipidemia along with chronic pain at the [redacted] veteran's affairs medical center since May 2019, and that COVID-19 makes it unsafe for him to travel. The Petitioner also submits a statement dated November 11, 2021 explaining that he was in the Navy for

21 years, and he desires to marry the Beneficiary because she was very supportive of him during his time in Bahrain. He explains that he continues to send her and her daughter money in Thailand because his desire to marry her is genuine. Furthermore, he reiterates some of the information in his prior statement regarding the Beneficiary's attempt to procure a tourist visa to come to the United States to marry him, and his subsequent attempt to find a visa processor to help him get her a fiancée visa. He also explained that he started a job as a "Police Officer Instructor" that did not allow him to take leave. Finally, he reiterates his arguments related to COVID-19 travel restrictions. He explains that because of the quarantine periods in Thailand, travelling to visit the Beneficiary would have been an extreme hardship.

The Petitioner has failed to establish he merits an extreme hardship exemption based on COVID-19 travel restrictions. A significant portion of the two-year meeting requirement, from September 2018 to March 2020, did not have any COVID-19 related travel restrictions. Therefore, the Petitioner's COVID-19 related arguments do not establish he merits an extreme hardship exemption since they do not cover a sufficiently significant portion of the two-year meeting period. Moreover, the Petitioner has not established or made any arguments related to what extreme hardships he would have suffered if he had traveled to visit her during the period before March 2020. Furthermore, he does not attempt to explain why the parties did not meet in a third country during the two-year period, particularly in the period after her U.S. tourist visa was denied. We acknowledge that the couple attempted to obtain visa processing assistance but that delays, and the Petitioner's new employment, may have prevented them from obtaining that assistance in a timely fashion. Unfortunately, new employment is not a sufficient basis to establish an extreme hardship exemption. Similarly, delays in obtaining visa processing assistance do not establish an extreme hardship exemption.

The Petitioner requests an "exception" of the two-year meeting requirement based on the fact that his fiancée petition was received on Monday, September 14, 2020, which is two days after the two-year anniversary since the last time he saw the Beneficiary on September 12, 2018. Moreover, he argues that because September 12, 2020 was a Saturday, his application was not late, but we did not process his petition until Monday, September 14, 2020. We acknowledge the Petitioner's arguments, however the requirements as set forth in the statute and regulations require an in-person meeting in the two-year period prior to the filing of the petition, notwithstanding the days of the week. USCIS received his petition on September 14, 2020, and he has not established he and the Beneficiary met in the relevant two-year period prior to the filing of the petition. 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).

III. CONCLUSION

As such, 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. We do emphasize, however, that denial of this petition shall be without prejudice to the filing of a new fiancé(e) visa petition.

ORDER: The appeal is dismissed.