



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

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

In Re: 22338322

Date: OCT. 13, 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 April 14, 2021. As such, the relevant period during which he must establish he and the Beneficiary met is between April 14, 2019 and April 14, 2021. 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 negative. In response to question 54, he explained, in verbatim:

Travel restrictions of COVID-19 have prevented us from meeting in person. However we communicate daily and video chat often. I know very well and intend to marry her.

The Petitioner requested an extreme hardship waiver because of COVID-19 pandemic travel restrictions.

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 explained again that COVID travel restrictions prevented the parties from meeting prior to his filing of the fiancée petition. He also expressed his belief that COVID travel restrictions were an “understandable reason” for not meeting. He went on to explain that subsequent to the filing of the fiancée petition, he traveled to visit the Beneficiary in October 2021, and he provided airline, passport, hotel, and photographic evidence of their meeting.

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 provided insufficient details regarding the individual consequences and risk factors he or the Beneficiary would have faced had he attempted to meet the two-year meeting requirement. We agree with the Director that absent evidence or a detailed explanation as to why the Petitioner would suffer extreme hardship if he were forced to comply with the two-year in person meeting requirement, the evidence is insufficient to merit a discretionary waiver.

On appeal, the Petitioner reiterates that he did not meet the Beneficiary during the required two-year period. He also explains that in addition to his October 2021 visit to meet her, he traveled again in March 2022 to visit the Beneficiary, and he provides airline, photographic, passport, and hotel documentation to establish this meeting. Furthermore, the Petitioner requests information about how to transfer the evidence and filing fees associated with the instant petition to any petition he subsequently files on the Beneficiary’s behalf.¹

We acknowledge that the Petitioner has established that he and the Beneficiary have met on two occasions subsequent to the filing of this petition. However, because the statutory and regulatory requirement of meeting within the two-year period prior to filing the petition has not been met, and

¹ Our records indicate the Petitioner filed a fiancée petition in 2022 that was rejected because no filing fee was included. The Petitioner may wish to refer to the instructions for filing a fiancée petition, which specify that filing fees are nonrefundable, and which provide all relevant information regarding what to file with a fiancée petition. See <https://www.uscis.gov/sites/default/files/document/forms/i-129finstr.pdf>

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.

III. CONCLUSION

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 Petitioner has not established that the parties have previously met in person within two years before the date of filing the fiancé(e) petition, or that a discretionary waiver of the two-year personal meeting requirement is warranted pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

ORDER: The appeal is dismissed.