



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

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

In Re: 28650247

Date: DEC. 04, 2023

Appeal of California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner seeks to classify the Beneficiary as her K-1 nonimmigrant fiancé. Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i). For this classification, the Petitioner must establish that the couple met during the two-year period preceding the petition's filing, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within 90 days of the Beneficiary's admission. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the parties had met in person in the two years preceding the filing of the petition or that the Petitioner is eligible for a waiver of this requirement. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *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 entry of a new decision consistent with the following analysis.

In order to classify a beneficiary as their fiancé, a petitioner must establish, among other things, that both parties met in person in the two years preceding the filing date of the petition. Section 214(d)(1) of the Act. As a matter of discretion, U.S. Citizenship and Immigration Services (USCIS) may exempt a petitioner from this requirement only if the petitioner establishes 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 the parties have met in person within the required period or that the requirement should be waived shall result in denial of the petition. 8 C.F.R. § 214.2(k)(2).

Since the Petitioner does not claim that she and the Beneficiary complied with the in-person meeting requirement, the sole issue on appeal is whether she should be exempted from it as a matter of discretion. The Form I-129F, Petition for Alien Fiancé(e), in this case was filed on August 17, 2021.

Therefore, the relevant two-year period when the parties were required to meet ran from August 17, 2019, to August 16, 2021.

In the initial Form I-129F, the Petitioner stated that “[d]ue to the COVID-19 epidemic it was not possible for either party to travel to meet in person.” She did not provide any supporting evidence regarding why this was the case. The Director issued a request for evidence (RFE), requesting, among other things, documentation showing that complying with the in-person meeting requirement would cause the Petitioner extreme hardship or would violate strict and long-held customs of the Beneficiary’s foreign culture or social practice. In response, the Petitioner provided evidence including a letter from her imam and documentation indicating that she met the Beneficiary’s mother when the latter visited the United States in 2022. The Director denied the petition, finding that this evidence did not establish eligibility for a waiver.

Remanding a matter is appropriate when the Director does not fully explain the reasons for the denial so that the affected party has a fair opportunity to contest the decision and we have an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the director’s decision must explain the specific reasons for denial); *c.f. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal.) Here, the Director did not discuss the Petitioner’s evidence beyond listing the items provided, and did not provide any reasoning for the conclusion that it was insufficient to establish eligibility.

We will therefore remand this matter to the Director to consider whether the Petitioner has established that she should receive an exemption from the in-person meeting requirement in the exercise of discretion. On remand, the Director shall review and weigh all of the evidence presented, including the materials provided on appeal.

ORDER: The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.