



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

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

In Re: 23859085

Date: JAN. 05, 2023

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as her fiancé. Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé (and that person's children) to the United States in K nonimmigrant visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the 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 90 days of 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 met in person in the two years preceding the filing date of the petition or that the Petitioner should be granted a waiver of this requirement in the exercise of discretion.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

In order to classify a beneficiary as their fiancé, a petitioner must establish, among other things, that both parties have met in person in the two years preceding the date of filing the petition. Section 214(d)(1) of the Act.

As a matter of discretion, U.S. Citizenship and Immigration Services may exempt a petitioner from this requirement only if the petitioner establishes that compliance would result in extreme hardship to the petitioner or if 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 met in person in the two years preceding the filing of the petition, the sole issue on appeal is whether she should be exempted from this requirement as a matter of discretion.

The Petitioner filed Form I-129F, Petition for Alien Fiancé(e), on September 17, 2020. Therefore, she was required to meet with the Beneficiary in person between September 17, 2018 and September 16, 2020. The Petitioner requested an exemption from this requirement, stating that she had not travelled to meet the Beneficiary because airfares were too high in December 2019 and COVID-19 concerns prevented her from travelling in April 2020.

The Director issued a request for evidence asking for, among other things, evidence that meeting the in-person requirement would cause the Petitioner extreme hardship. In response, the Petitioner submitted a letter indicating that she felt safer travelling after she had been vaccinated for COVID-19, proof of her vaccination, and evidence of her trip to visit her fiancé in 2021. The Director denied the petition, finding that since the COVID-19 pandemic did not exist for much of the qualifying two-year period, the evidence provided did not establish that complying with the in-person meeting requirement would cause the Petitioner extreme hardship.

On appeal, the Petitioner states two reasons for her inability to comply with the in-person meeting requirement. First, she states that she could not file Form I-129F until her divorce was finalized in [REDACTED] 2019 and that “[t]his took 14 months” away from the qualifying two-year period. Second, she states that she could not visit the Beneficiary in Kenya for much of 2020 due to travel restrictions and the health risks associated with the COVID-19 pandemic. Instead, she booked her flight to Kenya in November 2020, two months after filing the fiancé petition.

First, while we acknowledge that the Petitioner travelled to meet the Beneficiary in 2021, she was required to meet with him in person prior to filing the fiancé petition in 2020. 8 C.F.R. § 214.2(k)(2). A petitioner must establish that they are eligible for the requested benefit at the time their petition is filed. 8 C.F.R. § 103.2(b)(1). Therefore, the 2021 trip does not fulfill the in-person meeting requirement.

Second, the record does not establish that complying with the in-person meeting requirement would have caused the Petitioner extreme hardship. As noted by the Director, the COVID-19 pandemic and accompanying travel restrictions did not exist for much of the qualifying time period. It is also not apparent why the parties could not meet in person until the Petitioner’s divorce was finalized, given that they had been in a relationship since 2018. The fiancé visa regulations give the parties two years to meet in person. 8 C.F.R. § 214.2(k)(2). The parties failed to do so here.

The Petitioner has not established she should receive an exemption from the in-person meeting requirement in the exercise of discretion. Therefore, she has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. The denial of this petition shall be without prejudice to the filing of a new fiancé visa petition.

ORDER: The appeal is dismissed.