



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

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

In Re: 27523636

Date: JUL. 24, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as his K-1 nonimmigrant fiancée. 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 in person in 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 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 should receive a waiver of this requirement in the exercise of discretion. 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 dismiss the appeal.

In order to classify a beneficiary as their fiancée, 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).

The Form I-129F was filed on October 25, 2021. Therefore, the Petitioner and Beneficiary were required to meet in person between October 25, 2019, and October 24, 2021. In the initial petition, the Petitioner stated that he had met the Beneficiary in person in 2017. The Director noted that this was outside the relevant two-year period and requested evidence that the parties had met the in-person meeting requirement or that the Petitioner was eligible for a waiver. In response, the Petitioner

provided a letter stating that he was unable to meet the Beneficiary in person during the two-year period because of his job in the U.S. armed forces, noting that he had been assigned to a post abroad and that travel to the Philippines, where the Beneficiary resides, was restricted due to COVID.¹ To support this claim, he provided copies of his orders assigning him to a base in South Korea in October 2020 and executive orders restricting travel to and from the United States as of April 2020 and the Philippines as of July 2020.² He also provided a flight itinerary indicating that he had travelled to the Philippines in June 2022, as well photos of the parties together during that trip.

The Director found that the parties had not met in person during the relevant two-year period, since their in-person meetings occurred in 2017 and 2022 and the relevant period ran from 2019 to 2021. Furthermore, the COVID-related travel restrictions and the Petitioner's assignment abroad did not begin until five to twelve months into the two-year period, and the record did not establish that the Petitioner would have experienced extreme hardship if he had met the Beneficiary in person prior to those events. Therefore, the Director denied the petition.

On appeal, the Petitioner provides affidavits from his and the Beneficiary's family members and resubmits documentation from the underlying petition.³ The affidavits repeat the contention that meeting with the Beneficiary in person would have been difficult for the Petitioner due to COVID-related travel restrictions and the nature of his job. However, they do not address why meeting prior to the travel restrictions and his job assignment abroad would have caused the Petitioner extreme hardship. As such, the Petitioner has not overcome the grounds of the Director's denial and established that he should receive a waiver of the in-person meeting requirement in the exercise of discretion.

The Petitioner has not established that he and the Beneficiary fulfilled the in-person meeting requirement or that he should receive an exemption from it in the exercise of discretion. As such, the Petitioner 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 fiancée visa petition once the parties fulfill the in-person meeting requirement or establish their eligibility for a discretionary exemption.

ORDER: The appeal is dismissed.

¹ The Petitioner does not claim, and the record does not establish, that complying with the in-person meeting requirement would violate strict and long-established customs of the Beneficiary's foreign culture or social practice.

² The record indicates that the Petitioner moved back to the United States in October 2021.

³ The Petitioner stated on the Form I-290B, Notice of Appeal or Motion, that he would submit a brief and/or additional evidence within 30 calendar days of filing the appeal. To date, we have not received a brief or additional evidence.