



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

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

In Re: 28673109

Date: NOV. 7, 2023

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 petition, concluding that the record did not establish 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. 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.

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).

The Petitioner filed the fiancé(e) petition on October 4, 2021. As such, the relevant period during which he must establish he and the Beneficiary met is between October 4, 2019 and October 3, 2021. In his initial filing, the Petitioner answered “No” to question 53 on the Form I-129F, Petition for Alien Fiancé(e), confirming that he and his fiancée had not met in person during the relevant two-year period. In response to question 54, he requested an exemption from the meeting requirement because he “[h]ad airline tickets to [fly] on 2/25/20 but COVID hit and I haven’t been able to go. I also still have tickets to go but can’t fly. [The]Philippines has been closed to U[.]S[.] travel.”

The Director issued a request for evidence (RFE) explaining, among other things, that the Petitioner had not satisfied the two-year meeting requirement and provided him an opportunity to submit relevant evidence. In response, the Petitioner requested a waiver of the in-person meeting requirement and submitted his airline itinerary for a trip scheduled for June 11, 2021, explaining that the trip was cancelled due to COVID travel restrictions in the Philippines. He also expressed that the petition was filed before the parties had met because of the long wait time for processing and because of the June 2021 cancelled trip. Furthermore, he provided evidence that an in-person meeting occurred on May 8, 2022. (The Petitioner also addressed other issues in the Director’s RFE including, whether the parties have a bona fide intention to marry, the Beneficiary’s ability to marry the Petitioner, and the Petitioner’s criminal records related to a [redacted] 1997 conviction for operating a vehicle with excessive blood alcohol level or under the influence).

The Director determined the evidence insufficient to establish that either the requisite in-person meeting had taken place during the relevant time period or that the Petitioner had demonstrated an extreme hardship discretionary exemption. In particular, the Director explained that the Petitioner did not provide sufficient details to explain why the parties were unable to meet between October 2019 and March 13, 2020 (the five-month period before the pandemic was declared). Furthermore, the Director noted there was no documentation provided to address whether the Beneficiary attempted to travel to the United States to meet him or if the parties considered traveling to a third country to comply with the requirement. 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, and that he merited a discretionary waiver.

On appeal, the Petitioner provides a statement reiterating that he did not meet the Beneficiary during the required two-year period. He further states that in addition to his attempted trip to meet her in June 2021, he had purchased a ticket to visit the Beneficiary on January 31, 2020 for a planned trip to [redacted] [redacted] on February 28, 2020, but the airport in [redacted] closed due to COVID concerns. He contends that not being able to meet each other during the two-year period was an extreme hardship because they wanted to meet. He also describes other COVID-related hardships experienced by him and the Beneficiary including the loss of her employment in [redacted] and the death of two relatives due to COVID, the passing of her grandmother from non-COVID related illness, as well as her mother’s COVID-related sickness.

We acknowledge that the Petitioner and the Beneficiary have met once after the filing of this petition and that his planned February 2020 and June 2021 trips may have been cancelled. However, the Petitioner has not provided sufficient evidence or explanation (1) to demonstrate the extreme hardship the parties would have experienced had he traveled to meet her between October 2019 and early 2020 and (2) why the Beneficiary was unable to travel to the United States or why the parties did not meet

in a third country if they were unable to meet in [redacted] or the Philippines. 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 extreme hardship, his petition remains denied.

Furthermore, although not a basis for our denial, the record does not sufficiently establish that the Beneficiary is divorced from her first husband. The decree nisi provided is not evidence of a final divorce decree, therefore, should the Petitioner re-file, he must provide evidence that her prior marriage is terminated. *See generally*, [https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/\[redacted\].html](https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/[redacted].html) (last visited November 7, 2023). All requirements for the fiancée visa must be met at the time of filing the petition. 8 C.F.R. § 103.2(b)(1).

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.