



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

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

In Re: 28156981

Date: SEP. 26, 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 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 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 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 (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 he and the Beneficiary met in person in the two years preceding the filing of the petition, the sole issue on appeal is whether he should be exempted from this requirement as a matter of discretion.

The Form I-129F, Petition for Alien Fiancé(e), in this case was filed on March 18, 2021. Therefore, the Petitioner and Beneficiary were required to meet in person between March 18, 2019, and March 17, 2021. In his underlying petition, the Petitioner stated that he could not visit the Beneficiary in Vietnam during the relevant two-year period due to COVID-19-related travel restrictions and the restrictions of his criminal probation. He also provided court documents indicating that in [REDACTED] 2016, he was sentenced to 55 months in prison, and a letter from his probation officer stating that the Petitioner's period of supervised release was scheduled from October 7, 2020, to August 6, 2023. The probation officer's letter further stated that during this period, the Petitioner was not permitted to travel outside the United States without prior court authorization.

The Director denied the petition, noting that the Petitioner could have travelled to Vietnam if he had received permission to do so, and that he had not provided any documentation specifying what hardship he would undergo due to COVID-19-related travel restrictions. On appeal, the Petitioner provides statements indicating that travel into Vietnam was banned until "earlier this year."<sup>1</sup> He further states that he petitioned the court to end his probation period early due to good behavior and that his petition was granted, and provides documentation establishing that he travelled to meet the Beneficiary in Vietnam in November 2022. Upon review, the Petitioner has not established that he has met the two-year meeting requirement or should receive a waiver of it in the exercise of discretion.

First, we note that eligibility must be established as of the time of filing. 8 C.F.R. § 103.2(b)(1). The fiancée visa statutes and regulations require the parties to meet in the two years prior to the time of filing. Section 214(d)(1) of the Act; 8 C.F.R. § 214.2(k)(2). Because the Beneficiary's November 2022 trip to Vietnam did not take place during the relevant two-year period of March 2019 to March 2021, it cannot establish that he complied with the two-year meeting requirement.

Second, when a petitioner relies on foreign law to establish eligibility, the application of the foreign law is a question of fact which must be proved by the petitioner. *See, e.g., Matter of Kodwo*, 24 I&N Dec. 479, 482 (BIA 2008). Here, the Petitioner did not provide any documentation regarding when the Vietnamese government imposed COVID-19-related travel restrictions, when the restrictions were lifted, or who they applied to. Furthermore, much of the relevant two-year period occurred prior to the COVID-19 pandemic. As such, the Petitioner has not demonstrated that such restrictions legally prevented him from travelling to Vietnam during the relevant two-year period.

Third, as previously noted, the letter from the Petitioner's probation officer indicates that the Petitioner could have travelled outside the U.S. during his period of supervised release beginning in October 2020 if he had obtained court permission to do so. There is no indication in the record that the Petitioner attempted to obtain such permission and was denied.

Finally, the Petitioner's statements and evidence only address his ability to travel to Vietnam. He does not address whether the parties attempted to meet in the United States or a third country. We acknowledge that the Petitioner and Beneficiary have had a long relationship including an extended period of living together in Vietnam. However, the Petitioner has not demonstrated that complying with the two-year meeting requirement would have caused him extreme hardship.

---

<sup>1</sup> The appeal was filed in June 2022.

The Petitioner has not established that he and the Beneficiary have fulfilled the in-person meeting requirement or that he should receive an exemption from it in the exercise of discretion. Therefore, he 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. 8 C.F.R. § 214.2(k)(2).

**ORDER:** The appeal is dismissed.