



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

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

In Re: 29137119

Date: JAN. 26, 2024

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 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 complied with the in-person meeting requirement or have a bona fide intention to marry. 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 and have a bona fide intention to marry. Section 214(d)(1) of the Act.

As a matter of discretion, U.S. Citizenship and Immigration Services (USCIS) may exempt a petitioner from the in-person meeting 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).

The first issue on appeal is whether the parties have a bona fide intention to marry within 90 days of the Beneficiary's admission to the United States. Upon review of the record, the Petitioner has provided evidence establishing that he and the Beneficiary meet this requirement, including

documentation of communications and financial support over a period of several years. The Petitioner has therefore overcome this ground of the Director's denial.

Because the Petitioner does not claim that he and the Beneficiary met in person in the two years preceding the filing of the petition, the second issue on appeal is whether the Petitioner has established that he qualifies for a waiver of this requirement in the exercise of discretion. Upon review, the record does not demonstrate that complying with the in-person meeting requirement would cause the Petitioner extreme hardship.<sup>1</sup>

The Petitioner filed Form I-129F, Petition for Alien Fiancé(e), on November 3, 2021. The parties were therefore required to meet in person between November 3, 2019, and November 2, 2021. The record instead indicates that they met in 2015, 2018 and 2023, outside the relevant two-year period. According to the Petitioner's statement, after his October 2018 visit with the Beneficiary, the parties had to wait for the Beneficiary's marriage to be terminated in order to file the fiancée visa petition. The court documents in the record indicate that several hearings regarding the marriage's termination were held from October to November 2018, a judgment of nullity was issued in [redacted] 2020, and the judgment was finalized in [redacted] 2021, more than two years after the parties had last met in person.<sup>2</sup> Ten months after the Beneficiary's marriage was terminated, the Petitioner filed the fiancée visa petition.

Regarding the reasons the parties did not meet again in the two years preceding the petition's filing, the Petitioner states that in "March of 2020, [his] business as a pianist for the senior communities was cut off due to the [COVID-19] Pandemic," and that the parties "initially planned to unite within the 2 year limit but because of the Pandemic, all legal steps for our uniting ceased due to the closure of the necessary government offices." He further states that the Beneficiary was confined to an inpatient clinic from October 2020 to June 2021 for health reasons, and that as of October 2021 he was "scheduled to work for the remainder of 2021 and unable to return to the Philippines due to the Pandemic's effect on [his] job." To support these statements, the Petitioner provides documentation of the Beneficiary's medical treatment and correspondence with the visa preparation service that was hired to complete the fiancée visa petition.

The record does not establish how complying with the two-year meeting requirement would cause the Petitioner extreme hardship. First, we note that the four-month period from November 2019 through February 2020 occurred prior to the implementation of COVID-19-related travel restrictions in March 2020. There is no indication that the delays in finalizing the termination of the Beneficiary's marriage interfered with the parties' ability to meet in person during this time. Additionally, while we acknowledge that the Beneficiary's inpatient medical treatment prevented her from travelling, this treatment only lasted for nine months of the relevant two-year period, and there is no indication that she was unable to receive visitors during this time. The Petitioner states that "the closure of the necessary government offices" due to the COVID-19 pandemic prevented the parties from meeting,

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

<sup>2</sup> Divorce has not been recognized in the Philippines since 1950. Since that time, Filipino courts have only been empowered to terminate marriages by granting annulments or declaring a marriage null from the outset. U.S. Dep't of State, Bureau of Consular Aff., *U.S. Visa: Reciprocity and Civil Documents by Country – Philippines*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Philippines.html>.

but has not provided documentation of what closures he is referring to, when they occurred, or how they prevented the parties from meeting in person. He also has not provided documentation of how the pandemic's effect on his job caused an extreme hardship that prevented him from travelling, or why the Beneficiary could not visit him in the United States when her health allowed it. While we acknowledge the difficulties caused by the COVID-19 pandemic, the Petitioner has not documented what specific hardship the pandemic would cause him if he complied with the in-person meeting requirement.

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.

**ORDER:** The appeal is dismissed.