



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

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

MATTER OF J-M-D-

DATE: DEC. 14, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a fiancé(e) of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition, and the matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the Petitioner failed to establish that he and the Beneficiary had met within the required period during the two years preceding the filing of the petition. On appeal, the Petitioner submits an additional statement and documentation of email correspondence with the Beneficiary.

*Applicable Law*

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 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 a period of ninety days after the alien's arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services

(USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

*Factual and Procedural History*

The Petitioner filed the fiancé(e) petition with USCIS on March 4, 2014, without sufficient supporting evidence. For this reason, the Director issued a request for additional evidence and, in response, the Petitioner submitted additional documentary evidence.

The Director denied the petition, finding that the Petitioner had failed to submit evidence to establish that he and the Beneficiary had met as required under section 214(d) of the Act. On appeal, the Petitioner submitted an additional statement.

*Analysis*

The Petitioner has not submitted probative evidence that he and the Beneficiary have met in person between March 4, 2012, and March 4, 2014, which is the two-year period immediately preceding the filing of the petition, or evidence that the Petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). On appeal, the Petitioner admits that he and the Beneficiary have not met since 2008, when he was still married to his former spouse. This meeting is outside the two-year period immediately preceding the filing of the petition.

On appeal, the Petitioner explains why he has not been able to see the Beneficiary since 2008 and asks that he be granted an exemption from the two year meeting requirement.

Pursuant to 8 C.F.R. § 214.2(k)(2), the Petitioner may be exempted from the requirement for a meeting with the Beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

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The Petitioner states that he had to leave Kuwait in 2008 because he no longer had employment there. He states that he had marital and custody issues with his ex-wife over his two sons, and that his focus since taking custody of his two sons in 2011 has been on them and on recovering financially. He states that filing the petition at an earlier time would have resulted in financial detriment to his sons.

The Petitioner states that he last saw the Beneficiary in 2008 and they have a daughter that was born in 2009. The record indicates the Petitioner divorced his prior spouse and became eligible to file a Form I-129F on May 29, 2011, more than two years after he had last seen the Beneficiary.

The record contains a tax return from 2008, but this is not sufficient to demonstrate that the Petitioner was unable to accommodate the costs of travel during the two-year period before he filed the petition in 2014. While we recognize the demands of being a parent, the record in this case does not contain sufficient evidence to demonstrate that the circumstances were such between March 2012 and March 2014 that it would have resulted in extreme hardship for the Petitioner to travel abroad for a short period of time to meet with the Beneficiary. Without sufficient evidence to demonstrate that it would have constituted an extreme hardship for the Petitioner to meet the Beneficiary during the required two-year period, we cannot conclude that he is eligible for an exemption of the two year meeting requirement.

*Conclusion*

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of J-M-D-*, ID# 14216 (AAO Dec. 14, 2015)