



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

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

MATTER OF B-M-

DATE: FEB. 29, 2016

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 the fiancée 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. 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 met the Beneficiary in person during the two-year period before he filed the Petition for Alien Fiancé(e). On appeal, the Petitioner again did not submit the required evidence in support of the Petition for Alien Fiancé(e). On September 28, 2015, we issued the Petitioner a request for evidence (RFE) indicating that the record lacked required evidence of having met the Beneficiary during the two years immediately preceding filing of the petition and requesting the missing evidence.

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

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

The Petitioner filed the fiancé(e) petition with USCIS on September 23, 2014 without sufficient supporting evidence. The Director sent an RFE dated October 27, 2014 providing the Petitioner a chance to submit the required evidence, but the Petitioner's November 10, 2014, submission was again incomplete. For this reason, the Director denied the petition on December 9, 2014, finding that the Petitioner had failed to submit documentation to establish that the Petitioner and Beneficiary had personally met within the relevant two-year period, and had not claimed that such a meeting would cause extreme hardship or violate strict and long-established customs of the Beneficiary's foreign culture or social practice. On appeal, the Petitioner again did not submit evidence of having met the Beneficiary within the applicable two-year period, and we issued another RFE. On December 22, 2015, we received the Petitioner's RFE response containing insufficient evidence to establish compliance with the personal meeting requirement.

The record contains statements from the Petitioner and Beneficiary, along with documentation claiming the Petitioner has resided in Afghanistan since May 2011 and attended a formal engagement ceremony with his fiancée in Afghanistan on August 4, 2014. The record also contains the statement of the Petitioner's ex-wife indicating that she is receiving mail on his behalf at her U.S. residence because of unreliable mail service at his [REDACTED] address.

The Petitioner claims that he has resided in Afghanistan with the Beneficiary since June 2011 and thus meets the requirement of having met the Beneficiary in person between September 23, 2012, and September 23, 2014, the two years preceding filing of Form I-129F.

Regarding the Petitioner's physical location, while a May 28, 2011, stamp in the Petitioner's current U.S. passport shows that he entered Afghanistan, there is no evidence to support his claim that he has resided there since that date. In response to the RFE requesting this evidence, the Petitioner states he traveled to Afghanistan in 2011 for a job opportunity and claims that he is paid in cash and is therefore unable to submit any pay stubs. He submits no other evidence to support his claim of ongoing employment in Afghanistan during the requisite period, such as a letter from his employer. The record thus contains no documentation of his employment, wage level, or receipt of a salary to corroborate his asserted reasons for traveling to and remaining in Afghanistan. We further note that his Form G-325A, Biographic Information, dated August 30, 2014, states that he is a marketing supervisor for [REDACTED] while his affidavit states he works as an independent contractor for the [REDACTED]. There is no indication that these employers are the same entity. In response to the RFE the Petitioner also submitted a November 8, 2015, bank letter stating that [REDACTED] and [REDACTED] [no surname]" have had a joint bank account since December 2012, and a November 2015 SIM card bill, but these documents are insufficient to establish that the Petitioner was residing in Afghanistan during the requisite period and met the Beneficiary during that time in satisfaction of the two-year meeting requirement. Furthermore, we note that court documents submitted by the Petitioner indicate

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that on [REDACTED] 2013, the [REDACTED] California, Superior Court acquired jurisdiction over him in his pending divorce based on his personal appearance. *See* Judgment of Dissolution, May 9, 2014.

In support of the appeal, the Petitioner submitted statements concerning his engagement with translation stamps, but did not submit the original documents. In response to our RFE requesting that he submit the original documents with certified translations, the Petitioner did not provide the original documents, but submitted a new statement dated October 31, 2015, in which he claims he was engaged to the Beneficiary on August 4, 2014, with a certified translation. He also submitted a photograph of himself and the Beneficiary taken in 2015 and a November 16, 2015, consular notarization of a letter stating he was living and employed in Afghanistan. We note that, while the consular document establishes the Petitioner was at the U.S. Embassy in [REDACTED] on that date, this document and the photograph with the Beneficiary establish only that he was in Afghanistan and they met in person in 2015, after the two-year requisite period.

The evidence on the record is insufficient to establish the Petitioner's claim that that since arriving in Afghanistan in 2011, the Petitioner has not departed the country and has resided with the Beneficiary. We cannot conclude based on the record that the Petitioner has established having met the Beneficiary within two years prior to the September 23, 2014, petition filing date.

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 B-M-*, ID# 13219 (AAO Feb. 29, 2016)