



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

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

MATTER OF F-P-

DATE: JULY 13, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as her fiancé. See Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) (and that person's children) to the United States in K nonimmigrant classification for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the Form I-129F, Petition for Alien Fiancé(e) (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 90 days of the beneficiary's admission as a K nonimmigrant.

The Director, California Service Center, denied the fiancé(e) petition, concluding that the Petitioner did not establish that she and the Beneficiary personally met within the two-year period immediately preceding the filing of the fiancé(e) petition or that the Petitioner merits a discretionary waiver of the personal meeting requirement. The Director also determined that the Petitioner needed to submit a waiver of the statutory filing limitations because she filed the current fiancé(e) petition within two years of filing a previously-approved fiancé(e) petition.

The matter is now before us on appeal. On appeal, the Petitioner submits a statement requesting a waiver of the two-year meeting requirement due to the extreme hardship of the high financial costs and adverse job consequences involved in visiting her fiancé in India.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Subject to subsections (d) and (r) of section 214 of the Act, 8 U.S.C. § 1184(d) and (r), nonimmigrant K classification may be accorded to an alien who "is the fiancée or fiance 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 . . ." See section 101(a)(15)(K)(i) of the Act.

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if the 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 the beneficiary's arrival. U.S. Citizenship and Immigration Services (USCIS) maintains the discretion to waive the requirement of an in-person meeting between the two parties if compliance would either result in extreme hardship to the petitioner, or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *See* section 214(d)(1); 8 C.F.R. § 214.2(k)(2). When determining whether extreme hardship prevented a petitioner from meeting a beneficiary, we generally look at whether, during the two-year period, there existed any circumstances that were (1) not within the power of the petitioner to control or change; and (2) likely to last for a considerable duration or the duration could not have been determined with any degree of certainty.

Fiancé(e) petitions are also subject to certain filing limitation for those petitioners who: (1) have previously filed a fiancé(e) petition for two or more alien fiancé(e)s; or (2) received the approval of a prior fiancé(e) petition and less than two years have passed since the filing date of that previously-approved fiancé(e) petition. *See* section 214(d)(2)(A) of the Act. Petitioners who are subject to the filing limitations must submit a written waiver request, and whether to grant the waiver is at the discretion of USCIS. *See* sections 214(d)(2)(B)-(C) of the Act; *see also* Instructions for Petition for Alien Fiance(e).

II. ANALYSIS

The Petitioner filed a previous fiancé(e) petition on December 26, 2013, that was approved on March 20, 2014; however, a consular officer did not issue a K-1 visa before the underlying fiancé(e) petition's validity lapsed on July 19, 2014. On June 19, 2015, the Petitioner filed a second fiancé(e) petition, and was therefore required to have met the Beneficiary in person at some point from June 19, 2013 to June 19, 2015, or to have requested a waiver of this requirement. In addition, the Director determined that because the current fiancé(e) petition was filed within two years of the filing of the first fiancé(e) petition, the Petitioner also needed to request a waiver of the filing limitations.

A. Waiver of the Filing Limitations

In her appeal letter, the Petitioner states that she filed the current fiancé(e) petition due to the lapse in validity of her previous fiancé(e) petition that was caused by delays attributed to the consular officer and to USCIS. The record reflects that approval of the first fiancé(e) petition was valid only until July 19, 2014, the Petitioner filed the second fiancé(e) petition on June 19, 2015, and both fiancé(e) petitions are on behalf of the same beneficiary. The Petitioner's explanation is sufficient for us to waive the filing limitation imposed by section 214(d)(2)(A) of the Act.

B. Waiver of the Required Personal Meeting

The Petitioner states that extreme financial hardship prevented her from meeting the Beneficiary during the required time period. She claims that, in addition to being unable to afford the cost of an

airline ticket,¹ she would lose her job if she took time off from work to travel to India. However, there is no evidence she lacked the financial resources for such a trip. To the contrary, the record of proceedings contains a 2013 tax return and Form I-134, Affidavit of Support, indicating she has over \$20,000 in annual income, \$10,000 in savings, and personal property valued at \$25,000. The Petitioner also does not provide evidence that a two-week absence from work would result in the loss of her cosmetology job. In addition, the statute does not specify where the personal meeting must occur; it could have taken place in a third county where the costs associated with traveling there would have been less. The Petitioner's claim of financial hardship is also belied by her travel to India in February 2013, only four months before the start of the two-year period that preceded the filing of this fiancé(e) petition. Although the Petitioner claims that she uses prepaid phone cards to talk to her fiancé every day, telephone conversations are not substitutes for the required personal meeting.

As the Petitioner has not established that meeting her fiancé would have imposed extreme hardship to her, we will not exercise our discretion to waive the personal meeting between the Petitioner and the Beneficiary that the statute requires.

III. CONCLUSION

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; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden; however, the denial of this fiancé(e) petition is without prejudice to the filing of another fiancé(e) petition at a future date once the statutory requirements are met.

ORDER: The appeal is dismissed.

Cite as *Matter of F-P-*, ID# 17013 (AAO July 13, 2016)

¹ The record reflects that the Petitioner visited India from February 4, 2013 to February 19, 2013. Although satisfying the two-year meeting requirement for her first fiancé(e) petition, this evidence did not establish a personal meeting within the two years prior to the filing date of the current fiancé(e) petition.