



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

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

MATTER OF O-E-A-

DATE: JULY 20, 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 his fiancée. *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 he 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.

On appeal, the Petitioner submits a statement requesting waiver of the two-year meeting requirement in which he asserts that satisfying it while caring for his ill mother and attending to his own medical problems would have entailed extreme hardship.

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 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 . . ." *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.

## II. ANALYSIS

The Petitioner filed a fiancé(e) petition on May 20, 2015, and was therefore required to have met the Beneficiary in person at some point from May 20, 2013 to May 20, 2015, or to have requested a waiver of this requirement. There is evidence the Petitioner visited his fiancée in October 2015, but he admits not doing so during the relevant two-year time period because health problems - his mother's as well as his own - prevented him from meeting his fiancée in person as required.

The Petitioner states that caring for his sick mother prevented him from traveling. However, the only support for claims about his mother's healthcare needs is a statement from the Petitioner's sister that does not detail their mother's illness, describe the care rendered by the Petitioner, or explain why she could not assist in such care. Nor does this statement attribute any health problems to the Petitioner. While sensitive to the caregiving role that adult children often provide aged parents, there is insufficient evidence to establish that the Petitioner was unable to visit his fiancée abroad during the relevant time period.

Regarding the Petitioner's claim that his own health problems prevented him from traveling, there is no documentation supporting his claim of suffering from ailments, such as diabetes, gastritis, hypertension, and inflammation of the liver. Overall, the record of proceedings lacks evidence of travel being a hardship to the Petitioner, particularly in light of the fact that the Petitioner did travel to Ecuador to meet his fiancée less than six months after he filed the fiancé(e) petition.

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

In addition, although the Director did not raise this issue in the denial letter, our review of record of proceedings reveals that the Petitioner has submitted no evidence of his intent to marry the Beneficiary within 90 days of her admission into the United States. Should the Petitioner submit a new fiancé(e) petition in the future, he will need to include this item of required evidence.

## 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

*Matter of O-E-A-*

(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 O-E-A-*, ID# 17130 (AAO July 20, 2016)