



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

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

MATTER OF D-P-C-B-

DATE: JULY 25, 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.

The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and states that it is difficult for him to travel, but that he has again visited the Beneficiary.

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

I. APPLICABLE 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 fiancee 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) of the Act; 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 the fiancé(e) petition with USCIS on September 3, 2015, and was therefore required to have met the Beneficiary in person at some point from September 3, 2013, to September 3, 2015. The Director denied the fiancé(e) petition because evidence in the record of proceedings indicated that the Petitioner met the Beneficiary in May 2013, prior to the requisite period. On appeal, the Petitioner states that it is difficult for him to visit the Beneficiary because of his work, but that he visited her in January 2016. With the appeal, the Petitioner submits passport stamps for the Philippines and his trip itinerary showing travel between January 1 and January 13, 2016. However, the dates of the Petitioner's visit again fall outside the requisite period between September 3, 2013, and September 3, 2015. The Petitioner has not asserted nor submitted evidence that meeting the Beneficiary within the requisite period would have caused extreme hardship to him, or would have violated strict and long-established customs of the Beneficiary's foreign culture or social practice. Accordingly, we will not 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 D-P-C-B-*, ID# 18088 (AAO July 25, 2016)