



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

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

MATTER OF H-N-

DATE: JUNE 7, 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 visa status 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 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 admission.

The Director, California Service Center, denied the petition, concluding that the Petitioner and the Beneficiary had not met in person within two years before the date of filing the petition and that the meeting requirement would not be waived.

The matter is now before us on appeal. In the appeal, the Petitioner states that he was unable to meet the Beneficiary in person because of his fear of traveling by airplane.

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

I. LAW

The Petitioner is seeking to classify the Beneficiary as his fiancée.

Subject to subsections (d) and (p) of section 214 of the Act, section 101(a)(15)(K)(i) of the Act provides nonimmigrant classification for 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 . . ."

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 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. It also provides discretionary authority to waive the requirement that the parties have previously met in person.

II. ANALYSIS

The Petitioner and Beneficiary have not met in person during the two years before the filing of the petition. The issue on appeal is whether compliance with the meeting requirement would result in extreme hardship to the Petitioner or violate strict and long-established customs of the Beneficiary's social culture and religious practice. The Petitioner states that he was unable to meet the Beneficiary because of family and cultural restrictions on her travel, his own safety concerns about traveling to Iran, and his fear of traveling by airplane. We find that the record does not support these assertions. The Petitioner has therefore not established that the meeting requirement should be waived.

The statutory requirement of an in-person meeting between a petitioner and a beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states that as a matter of discretion, we may exempt a petitioner from the requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice. The regulation also provides that denial of the petition for this reason is without prejudice to the filing of a new petition once the petitioner and beneficiary have met in person.

The regulation does not define what may constitute extreme hardship. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of a petitioner's circumstances. Generally, we look at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of a petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

The Petitioner and the Beneficiary were required to have met between June 25, 2013, and June 25, 2015. The Petitioner indicates that compliance with the meeting requirement would have violated strict and long-established customs of the Beneficiary's social culture and religious practice. He states that for religious and family reasons the Beneficiary was not able to travel alone from Iran. However, even if we accept that she was unable to travel alone, the Petitioner has not explained why she would have been unable to travel with a relative or family member.

The Petitioner declared that compliance with the meeting requirement would result in extreme hardship to himself. He maintained that he was unable to travel to meet the Beneficiary because of his concern about his safety in Iran, his fear of flying in an airplane, and his inability to take time away from his employment. Regarding his claim about being at risk in Iran, the Petitioner is not required to have met the Beneficiary in Iran or the United States; they are able to meet in a third country. As for his fear of airplane travel, the Petitioner's method of travel is not limited to an airplane, depending on where the meeting takes place. As to his claim that he could not meet the Beneficiary due to his employment, the Petitioner has not provided evidence that would demonstrate that he was unable to take leave from work to meet her within the required period (between June 25, 2013 and June 25, 2015).

Matter of H-N-

The evidence provided by the Petitioner does not meet the requirements specified under section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2) for an exemption from the meeting requirement. The evidence does not establish that compliance with the regulatory requirement would result in extreme hardship to the Petitioner or that compliance would violate strict and long-established customs of the Beneficiary's foreign culture, social culture, or religious practice. We therefore find that the Petitioner has not established that he merits a favorable exercise of discretion to exempt him from the two year in-person meeting requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

As further stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition for failure to meet the two year in-person meeting requirement is without prejudice to the filing of a new petition once the Petitioner and the Beneficiary have met in person.

III. CONCLUSION

It is the Petitioner's burden to establish eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden. He has not met the two-year meeting requirement or established that it should be waived. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of H-N-*, ID# 16539 (AAO June 7, 2016)