



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

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

MATTER OF M-H-I-P

DATE: JUNE 24, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE 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 Beneficiary was not eligible as a fiancée because she and the Petitioner were already married. We dismissed a subsequent appeal, finding that although the Petitioner established that he and the Beneficiary were unmarried, he had not met the in-person meeting requirement or shown that it should be waived.

The matter is now before us on a motion to reopen and a motion to reconsider. On motion, the Petitioner submits additional evidence and states that he met the Beneficiary in Pakistan in September 2015.

Upon review, we will deny the motions.

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 issues on motion are whether the Petitioner and the Beneficiary met in person during the two years before the filing of the petition, and if not, whether the meeting requirement should be waived. Review of the record and documentation on appeal does not establish that the two-year meeting requirement was met or should be waived.

As a matter of discretion, we may exempt a petitioner from the in-person meeting only if it is established that compliance would result in extreme hardship to the petitioner or violate strict and long-established customs of the beneficiary's culture or social practice. 8 C.F.R. § 214.2(k)(2).

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 April 21, 2012 and April 21, 2014. The Petitioner submits copies of passport pages containing a September 2015 entry and exit stamp to Pakistan and the United Arab Emirates, undated photos of himself and the Beneficiary, and notarized statements from the Beneficiary and her brother affirming that the Petitioner visited her in September 2015. Although the Petitioner and Beneficiary have met, their meeting was not within the required period (between April 21, 2012 and April 21, 2014). The in-person meeting requirement has therefore not been met. And the record does not indicate that it should be waived.

The Petitioner has not met the two-year meeting requirement or shown that it should be waived. The denial of this petition is without prejudice to the filing of a new petition once the Petitioner and the Beneficiary have met in person. 8 C.F.R. § 214.2(k)(2).

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 shown that it should be waived. Accordingly, we deny the motions.

Matter of M-H-I-P

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-H-I-P*, ID# 16613 (AAO June 24, 2016)