



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

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

MATTER OF I-C-

DATE: MAY 2, 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 visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within 2 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. The Director concluded that the Petitioner did not establish that she and the Beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) or establish that she merits a favorable exercise of discretion to exempt her from the meeting requirement. The Director also found that the Petitioner had not requested a waiver of the filing limitation that precludes approval of a fiancé(e) petition if the petitioner has had such a petition previously approved within the past two years.

The matter is now before us on appeal. In the appeal, the Petitioner states she was unable to travel to Cuba to meet the Beneficiary during the two-year requisite period because of a severe financial situation and because she is saving her resources to pay for the wedding and relocation expenses for her fiancé, and she requests a waiver of the meeting requirement.

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

I. LAW

The Petitioner is seeking to classify the Beneficiary as her fiancé.

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 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"

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 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, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person

II. ANALYSIS

The issue on appeal is whether the Petitioner has established that compliance with the requirement that she and the Beneficiary meet in person during the two years before filing the fiancé(e) petition would result in extreme hardship. The Petitioner states that a K-1 fiancé(e) visa based on a petition she previously filed for the Beneficiary was wrongfully denied by the U.S. Consulate, and as a result, she had to file a second petition for her fiancé. She states that she was unable to travel to Cuba to meet the Beneficiary because of her financial situation, and although it has been less than two years since the prior petition was approved, she requests that we exercise favorable discretion and waive the two-year meeting requirement. We find that the record does not demonstrate that due to the Petitioner's financial situation, she was unable to travel to meet the Beneficiary during the two-year requisite period, and she therefore has not established that compliance with the two-year meeting requirement would have resulted in extreme hardship to her.

The Petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on January 20, 2015. Therefore, the Petitioner and the Beneficiary were required to have met in person between January 20, 2013 and January 20, 2015. The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this 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 K-1 beneficiary's foreign culture or social practice Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 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

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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 record reflects that the Petitioner had previously filed a Form I-129F petition for the Beneficiary on December 18, 2012. The petition was approved by the Director on July 10, 2013, but the U.S. Consulate in [REDACTED] Cuba denied the Beneficiary's visa application, finding that they did not have a bona fide intention to marry, and returned the petition to USCIS. The Director declined to revalidate the petition as the period of validity had expired.

On January 20, 2015, the Petitioner filed the current fiancé(e) petition. When she filed the petition, the Petitioner stated that her previous petition on behalf of the Beneficiary was approved, and had the U.S. Consulate in Havana issued the K1 visa, the Beneficiary would have been in the United States and she would not have needed to file this second petition. The Petitioner acknowledged that her last meeting with the Beneficiary occurred in April 2011, which falls outside the two-year period immediately preceding the filing of this petition. The Director found that the Petitioner had not claimed that meeting the Beneficiary in person between January 20, 2013 and January 20, 2015, as required, would have resulted in extreme hardship, and denied the petition accordingly. The Director also found that the Petitioner had not requested a waiver of the numerical filing limitation under section 214(d)(2)(A) of the Act, 8 U.S.C. § 1184(d)(2)(A).¹

On appeal, the Petitioner states that she was unable to meet the Beneficiary within the two-year period immediately preceding the filing of this Form I-129F because of financial constraints. She states that she and the Beneficiary have limited funds and are saving their resources for the Beneficiary's relocation to California and their wedding. The Petitioner does not submit any documentation concerning her financial situation to support this claim. Furthermore, the financial commitments required for travel to a foreign country are a common requirement to those filing the Form I-129F petition, and the record does not establish that traveling to meet the Beneficiary would constitute extreme hardship to the Petitioner.

¹ Section 214(d)(2)(A) of the Act provides in pertinent part:

Subject to subparagraphs (B) and (C), the Secretary of Homeland Security may not approve a petition under paragraph (1) unless the Secretary has verified that--

....

(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

If a petitioner has filed K-1 visa petitions for two or more aliens at any time in the past, or had a K-1 visa petition approved within two years prior to the filing of the current petition, the petitioner must request a waiver. Pursuant to section 214(d)(2)(B) of the Act, a discretionary waiver is available to waive the applicable time and/or numerical limitations if justification exists.

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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 she merits a favorable exercise of discretion to exempt her 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).

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. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of I-C-*, ID# 16215 (AAO May 2, 2016)