



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

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

MATTER OF H-M-

DATE: DEC. 11, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a fiancé(e) of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition because the Petitioner did not establish that he met the Beneficiary in person within the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) or demonstrate that he merits a favorable exercise of discretion to exempt him from such meeting requirement. On appeal, the Petitioner states that meeting the Beneficiary as required would result in extreme hardship to him and violate their customs and religious beliefs.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 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. . . .

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 to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the 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 regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Form I-129F, including a description of the required initial evidence, may be found in the *Instructions to the Form I-129F*.

Factual and Procedural History

The Petitioner filed the fiancé(e) petition with USCIS on January 28, 2013, without sufficient supporting evidence. For this reason, on July 11, 2013, the Director issued a request for evidence (RFE) requesting that the Petitioner submit evidence that the Petitioner and the Beneficiary met within two years immediately preceding the filing of the petition, and a statement of intention to marry from the Petitioner and the Beneficiary. The Petitioner did not submit a response to the RFE, and on October 11, 2013, the Director denied the petition. The Petitioner timely filed an appeal. On appeal, the Petitioner submits the requested statements but did not submit evidence that he personally met the Beneficiary within two years immediately preceding the filing of the petition.

The Petitioner did submit a statement dated September 15, 2013, stating that he was unable to meet the Beneficiary within two years prior to filing the petition because of work, the bad economy and caring for his daughter from a prior marriage. The Petitioner also states that the Muslim religion bars him and the Beneficiary from any physical contact before marriage. In a prior undated statement, the Petitioner stated that it is against his religious practice to see or spend time with the Beneficiary before marriage. The Petitioner also cited financial, work and family hardship as reasons he was unable to visit the Beneficiary during the requisite time period. The Petitioner submitted a statement citing sections of the Quran and describing the views of Muslim scholars regarding contact between men and women who

(b)(6)

Matter of H-M-

are not related. The Petitioner also submitted a statement from [REDACTED], New Jersey about the Shia Muslim view on pre-marriage meeting between a man and a woman.

Analysis

The Petitioner's statement that he takes care of his daughter both "physically and financially" does not establish, without supporting evidence, that traveling to Pakistan to meet the Beneficiary would constitute an extreme hardship for the Petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The Petitioner cited financial hardship as one of the reasons he could not travel to Pakistan to meet the Beneficiary during the requisite period. The Petitioner stated that in addition to purchasing a plane ticket, he would have to take time off work, fall behind on his bills and expenses, and have a big wedding ceremony for the Beneficiary's family and friends in Pakistan. The Petitioner's claim of financial hardship is not substantiated in the record. Aside from his statement, the Petitioner has not submitted financial documentation to support the claim that traveling to Pakistan during the requisite two-year period to meet the Beneficiary would result in extreme hardship for him.

The evidence submitted by the Petitioner also does not demonstrate that he is prohibited by religious or cultural practice from meeting the Beneficiary prior to their marriage. The opinions from Muslim scholars cited by the Petitioner indicate that before marriage, physical contact between a man and woman or being secluded in a private place would be prohibited. We note that section 214(d)(1) of the Act only requires that the Petitioner and Beneficiary meet but does not specify the circumstances, and this meeting may take place in the presence of family members or other individuals. The evidence on the record does not establish that compliance with this 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 or social practice. Further, the record in this case reflects that the Petitioner and the Beneficiary did already meet each other in person in Pakistan in 2008.

The evidence provided by the Petitioner does not meet the requirement specified under 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 Petitioner has not established that meeting the Beneficiary in person within the requisite time period would result in extreme hardship or violate strict and long-standing customs of the Beneficiary's foreign culture or social practice.

Conclusion

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the Petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the Petitioner has not met that burden. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

Matter of H-M-

ORDER: The appeal is dismissed.

Cite as *Matter of H-M-*, ID# 14154 (AAO Dec. 11, 2015)