



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

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

MATTER OF J-M-S-

DATE: OCT. 29, 2015

APPEAL OF CALIFORNIA 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 of a U.S. citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

On April 14, 2014, the Director denied the nonimmigrant visa petition because the Petitioner did not establish that she met the Beneficiary in person during the two-year period before filing Form I-129F, Petition for Alien Fiancé. On appeal, the Petitioner submits additional evidence.

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 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.

(b)(6)

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The Petitioner filed Form I-129F on September 25, 2013, without sufficient supporting evidence. For this reason, on November 4, 2013, the Director issued a request for additional evidence, which, among other things, requested evidence that the Beneficiary and Petitioner had met in person within two years before the date of filing the petition. In response the Petitioner submitted letters in which she and the Beneficiary stated that due to the war in Syria, it would be dangerous for her to travel to meet the Beneficiary there and that in addition, it would be a hardship for her to travel to Denmark, where the Beneficiary relocated in 2012, with her school-age daughter and twin toddlers. The Petitioner also submitted a letter, dated September 20, 2013, from [REDACTED] national director of the [REDACTED] [REDACTED] who stated that the Petitioner and Beneficiary initiated a marriage contract and interact through the Internet. He also stated that it would be dangerous for the Petitioner to travel to Syria to meet the Beneficiary in person.

The Director denied the petition, finding that the Petitioner did not submit evidence to establish that she and the Beneficiary had met during the two-year period immediately preceding the filing of the petition and did not establish eligibility for a waiver based on her extreme hardship, as required under section 241(d) of the Act.

On appeal, the Petitioner asserts she warrants a waiver of the meeting requirement. She states that according to the letter from [REDACTED], she cannot comply with the in-person meeting requirement, as meeting with the Beneficiary unaccompanied would violate strict and long established customs of the Beneficiary's culture and social practice. The Petitioner also asserts that she and the Beneficiary have met through "technology," in that they have been using the Internet over the past years to communicate with each other as a substitute to meeting in person. The Petitioner, through her representative, explains the need for "a chaperoned environment" in which to meet the Beneficiary, in accordance with Islamic custom, and someone "who can lawfully in Islam accompany and look after a woman's interest is fundamental in religious law." Through her representative, she claims to lack a valid *mahram* (qualifying male immediate relative) or guardian to escort her to meet the Beneficiary in person, as she has converted to Islam and is not permitted to travel without being accompanied by a male from her immediate family. In addition she states that she "has three daughters who would also be required to travel with an Islamically sanctioned guardian."

Pursuant to 8 C.F.R. § 214.2(k)(2), the Petitioner may be exempted from the requirement of meeting the Beneficiary in person if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional

arrangements have been or will be met in accordance with the custom or practice.

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

The Petitioner has not submitted probative evidence that she and the Beneficiary met in person between September 25, 2011 and September 25, 2013, which is the two-year period immediately preceding the filing of the petition, or evidence that she merits a favorable exercise of discretion to exempt her from this requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). Although the Petitioner asserts that "progressive innovations" through the Internet now allow individuals to meet without violating religious practices, an in-person meeting is required by law. The Petitioner submits no evidence showing that she met the Beneficiary in person during the requisite period and no legal authority establishing that her Internet contact with the Beneficiary satisfies the regulatory in-person meeting requirement. Moreover, there is no requirement that the Petitioner and the Beneficiary be unaccompanied during their meeting. Although the Petitioner's representative claims the Petitioner lacks qualified family members to chaperone her, she submits no documentation to corroborate those claims. The record lacks evidence showing that the Beneficiary and the Petitioner are precluded by their customs from meeting in person before their marriage.

Moreover, the Beneficiary has resided in Denmark since June 2012, and conditions in Syria do not prevent the Petitioner and the Beneficiary from meeting in a Denmark or a third country. On appeal, the Petitioner does not provide evidence to show how travelling to Denmark or a third country to meet the Beneficiary would result in extreme hardship.

Thus, the Petitioner's claim that the couple's inability to meet within the required period was due to Islamic religious custom is not supported by the evidence. Also, the Petitioner's claim that travelling to Denmark or a third country to meet the Beneficiary would result in extreme hardship is not supported by the record.

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, USCIS may, in its discretion, deny the petition for lack of initial evidence. The Petitioner did not submit the required documentation, and the Beneficiary may not benefit from the instant petition.

In fiancé visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. 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.

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**ORDER:** The appeal is dismissed.

Cite as *Matter of J-M-S-*, ID# 12876 (AAO Oct. 29, 2015)