



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

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

MATTER OF R-P-H-J-

DATE: SEPT. 22, 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 fiancée 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, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

On October 15, 2014, the Director denied the nonimmigrant visa petition because the Petitioner did not submit required initial evidence. Specifically, the Director found the Petitioner did not establish that he and the Beneficiary had met in person within 2 years before the date of filing the petition, and he did not provide evidence of the termination of his and the Beneficiary's previous marriages.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence in the record, including new evidence submitted upon appeal.

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 [her] 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 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.

The Petitioner filed the Form I-129F on April 10, 2014, without sufficient supporting evidence. For this reason, on May 7, 2014, the Director issued a request for evidence (RFE) which requested:

- Evidence of the Petitioner's U.S. citizenship.
- Form G-325A, Biographical Information Sheets, for the Petitioner and Beneficiary.
- Passport-style photographs of the Petitioner and Beneficiary.
- Evidence of the termination of the Petitioner and the Beneficiary's previous marriages.
- Evidence of the Petitioner's and Beneficiary's intent to enter into marriage within 90 days of the Beneficiary's entry into the United States.
- Evidence that the Beneficiary and Petitioner had met in person within two (2) years of the date of filing the petition.

In response to the RFE, the Petitioner indicated that he had met the Beneficiary in 2006, and that had not seen her in three (3) years and submitted:

- The Petitioner's birth certificate.
- The Petitioner's and Beneficiary's child's birth certificate.
- A copy of the information page of the Beneficiary's passport.
- A Form G-325A for the Petitioner.
- Passport-style photographs of the Petitioner and Beneficiary.
- Photographs of the Petitioner and Beneficiary together.

On October 15, 2014, the Director denied the petition, finding that the Petitioner had not submitted evidence to establish that he and the Beneficiary had met between April 10, 2012 and April 10, 2014, as required under section 241(d) of the Act, or that he merited a waiver of the meeting requirement. The Director also denied the petition because the Petitioner had not submitted evidence that he and the Beneficiary were legally free to marry, and because the Petitioner had not provided a Form G-325A, Biographic Information, from the Beneficiary. On appeal, the Petitioner explains that he last saw the Beneficiary and their son on October 26, 2010 when they departed Costa Rica and returned to Colombia and submits:

- Letters of hardship from the Petitioner.
- A copy of the Beneficiary's birth certificate.
- A portion of what appears to be the Beneficiary's birth certificate.
- An unsigned divorce decree for the Petitioner and his prior spouse.
- A form G-325A for the Beneficiary.
- Copies of money transfers.

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- A copy of a photograph of the Petitioner with the Beneficiary and their child.

The Petitioner admits that he and the Beneficiary did not meet in person within the 2 year period preceding the filing of the Form I-129F. Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary 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 K-1 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 Petitioner does not contend that he would be exempt based on the second scenario. In support of his claim that he is exempt from the 2 year meeting requirement due to extreme hardship, he states that he has been prevented from visiting the Beneficiary because, during the process of registering the birth of their child born abroad, the American Consulate in ██████ Costa Rica refused to return his U.S. passport because he owes child support. He states that he has been making monthly payments but that the balance will take several years to pay off. However, the Petitioner has not submitted any evidence other than his statement to establish that his passport has been confiscated, that he owes child support or that he is otherwise unable to obtain a U.S. passport for travel.

Further, the Petitioner's claim of extreme hardship is based solely on financial constraints. Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, economic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9th Cir. 1986).

On appeal, as evidence of termination of the Beneficiary's previous marriage, the Petitioner submits what appears to be a portion of the Beneficiary's birth certificate. The Beneficiary's birth certificate is not accompanied by a certified, English language translation which complies with 8 C.F.R. § 103.2(b)(3). Furthermore, the Petitioner submits no documentation demonstrating the Beneficiary was legally divorced. As evidence of termination of his previous marriage, the Petitioner submits an Arizona Superior Court decree of dissolution. However, the divorce decree is not signed by the judge, and as such, it does not appear to be a final order/judgement of divorce.

We further find that the record does not contain a passport-style photograph of the Petitioner, or evidence that the Petitioner and the Beneficiary intend to marry each other within 90 days of the Beneficiary's entry into the United States.

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The appeal will be dismissed for the above stated reasons. In fiancé(e) 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.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-P-H-J-*, ID# 13220 (AAO Sept. 22, 2015)