



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

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

MATTER OF O-A-O-

DATE: SEPT. 25, 2015

APPEAL OF VERMONT 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 (INA, or the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

On November 5, 2012, 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 two (2) years before the date of filing the petition. *Id.*

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 properly 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,

(b)(6)

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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 January 23, 2012, without sufficient supporting evidence. For this reason, on July 17, 2012, the Director issued a request for evidence (RFE) which, among other things, requested evidence that the Beneficiary and Petitioner had met in person within two (2) years before the date of filing the petition. In response to the RFE, the Petitioner submitted evidence of past travel to Nigeria.

On November 5, 2012, the Director denied the petition, finding that the Petitioner had not submitted evidence to establish that he and the Beneficiary had met between January 23, 2010, and January 23, 2012, as required under section 241(d) of the Act, or that he merited a waiver of the meeting requirement. On appeal, the Petitioner explains that he met with the Beneficiary while he was in Nigeria between December 31, 2010, and January 15, 2011. Alternatively he states that he has had extreme hardship due to his studies and financial commitments and that a family member purchased his last ticket to Nigeria to enable him to visit his child with the Beneficiary. The Petitioner claims that he has visited Nigeria from January 12, 2009, to January 24, 2009, December 25, 2009, to January 12, 2010, and December 31, 2010, to January 15, 2011. In support of these claimed travel dates the Petitioner submitted copies of his U.S. passport containing a Nigerian entry visa valid from November 18, 2008, until November 18, 2010, and Nigerian entry and exit stamps reflecting travel to Nigeria from January 12, 2009, to January 24, 2009, and December 25, 2009, to January 13, 2010. There are no other entry or exit stamps to support a finding that the Petitioner traveled to Nigeria on December 31, 2010, until January 15, 2011. The record contains a Consular Report of Birth Abroad reflecting that the Petitioner and Beneficiary have a child together who was born in Nigeria on [REDACTED] approximately 9 months after the Petitioner's December 25, 2009, to January 13, 2010, visit to Nigeria.

In support of his claim of travel to Nigeria from December 31, 2010, to January 15, 2011, the Petitioner submits copies of a January 10, 2011, international MoneyGram and a January 15, 2011, Western Union money transfer to the Petitioner and a November 25, 2010, itinerary for the Petitioner, paid for by another individual, for travel to Nigeria from December 31 to January 15. However, this is insufficient evidence to prove the Petitioner traveled to Nigeria during the claimed period. While the record contains money transfers indicating that the Petitioner received them in Nigeria and an itinerary reflecting that the Petitioner booked a flight to and from Nigeria during the claimed period, as discussed above, the Petitioner's U.S. passport does not contain any evidence of his physical travel to Nigeria after January 13, 2010. An itinerary may be generated without an individual physically travelling to the destination booked. Even though the money transfers indicate that the Petitioner received the money in Nigeria they are inconsistent with the Petitioner's passport which indicates that he did not physically travel to Nigeria during the claimed period. Without entry and exit stamps in the Petitioner's passport to establish that he traveled to Nigeria the money transfers and itinerary are insufficient evidence that the Petitioner actually traveled to Nigeria.

On appeal, the Petitioner states that he has had extreme hardship due to his studies and financial commitments. However, the record contains insufficient evidence indicating that the Petitioner merits a

favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

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. The Petitioner's claim of extreme hardship due to his studies and financial 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). Moreover, as previously noted, the Petitioner and the Beneficiary have already met, pursuant to the Petitioner's trips to Nigeria in 2009 and 2010. The Petitioner's tax returns from 2010 and 2011 indicate that the Petitioner's adjusted gross income increased in 2011. Thus, without more, the Petitioner's claim that the couple's inability to meet within the required period was due to extreme hardship is not supported by documentation of record.

We further find that the Petitioner did not submit passport-style photographs for the Beneficiary and the record does not contain evidence, such as statements from the Petitioner and the Beneficiary, that the Petitioner and the Beneficiary intend to marry each other within 90 days of the Beneficiary's entry into the United States.

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.