(b)(6)

U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-K-

DATE: FEB. 9, 2016

MOTION OF ADMINISTRATIVE APPEALS OFFICE 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 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. We dismissed a subsequent appeal. The matter is before us on a motion to reconsider. The motion will be dismissed.

The Director denied the nonimmigrant visa petition because the Petitioner did not establish that she and the Beneficiary met in person during the two-year period before she filed the Form I-129F, Petition for Alien Fiancé(e). In a decision dated May 27, 2015, we affirmed the decision of the Director and dismissed the appeal, finding that the Petitioner did not meet the Beneficiary during the requisite period and did not establish entitlement for a discretionary waiver of the meeting requirement.

On motion, the Petitioner requests that we reconsider our decision. She states that she arranged to meet the Beneficiary in in June 2015. She also submits evidence to corroborate her claim.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. 8 C.F.R. § 103.5(a)(3). It also must, when filed, establish that the decision was incorrect based on the record at the time of the initial decision. *Id.* A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Because the Petitioner submits new evidence to establish new facts, she has satisfied the requirements for consideration of her motion as a motion to reopen.

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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2), a 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) 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 a petitioner. Therefore, each claim of extreme hardship is judged on a case-by-case basis, taking into account the totality of the petitioner's circumstances.

The Petitioner filed Form I-129F on May 19, 2014, without sufficient supporting evidence. For this reason, the Director issued a request for additional evidence (RFE) on July 18, 2014. In her August 14, 2014, response, the Petitioner submitted her own statement, explaining that meeting her fiancé would violate cultural norms. The Director denied the petition, finding that the Petitioner had not submitted evidence she had met the Beneficiary personally within the required two-year period or that such a meeting would violate long-established religious customs and practices.

The Petitioner appealed and provided new documentation to support her hardship claim, including a statement from a religious leader, online articles, and a U.S. Department of State Travel Warning for Pakistan dated August 8, 2014. In our decision dismissing her appeal, we found this evidence insufficient to establish her eligibility for a waiver of the meeting requirement. In support of her motion, the Petitioner submits evidence that she asserts shows she met the Beneficiary in June 2015 and states that although it was difficult to arrange the trip due to customs and religious requirements, she met the Beneficiary and now understands the importance of an in-person meeting.

As discussed in our dismissal decision, the Petitioner did not submit probative evidence that she and the Beneficiary met in person between May 18, 2012, and May 18, 2014, 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 such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

Although the evidence submitted on motion establishes that the Petitioner met the Beneficiary in June 2015, this is after the two-year period immediately preceding the filing of the petition. The evidence of the couple's meeting in June 2015 would be relevant to a new petition that the Petitioner may file for the Beneficiary in the future, but it does not show that the couple met during the period applicable to this petition.

Moreover, the Petitioner does provide additional evidence to establish that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The Petitioner has not met her burden of establishing either scenario. Therefore, we will not disturb our dismissal decision.

The motion will be dismissed for the above stated reasons. 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.

ORDER: The motion to reconsider is dismissed.

Cite as *Matter of A-K-*, ID# 15029 (AAO Feb. 9, 2016)