



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

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

MATTER OF Y-C-D-

DATE: FEB. 9, 2016

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(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, California Service Center, denied the nonimmigrant visa petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the Petitioner failed to submit required initial evidence, including evidence that the Petitioner and Beneficiary met during the two years prior to the filing of the petition. On appeal, the Petitioner asserts that she cannot afford to travel to The Gambia, does not have a passport to travel to The Gambia, and cannot travel due to painful arthritis in her hips. The Petitioner submits additional evidence, including a statement from her doctor's office and a form acknowledging her application for benefits under the Family Medical Leave Act.

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 Petition for Alien Fiancé(e), including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

The Petitioner filed the fiancé(e) petition with USCIS on August 19, 2014, without sufficient supporting evidence. For this reason, the Director issued a request for evidence, and in response, the Petitioner submitted additional documentary evidence, including a statement from her doctor, statements of intent to marry, marital records, medical documentation, a birth certificate, and two Forms G-325, Biographical Questionnaire.

The Director denied the petition, finding that the Petitioner had failed to submit evidence to establish that she and the Beneficiary had met as required under section 214(d) of the Act. On appeal, the Petitioner provides a letter from her doctor and a notice of acknowledgement for filing of Family Medical Leave Act benefits.

The Petitioner has stated that she and the Beneficiary did not meet during the two years prior to the filing of the petition. The Petitioner asserts on appeal that she cannot afford to travel to The Gambia, that she does not have a passport, and that a medical condition prevents her from flying to The Gambia.

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 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 record contains several medical records which indicate that the Petitioner suffers from arthritis. A letter from her treating physician states that she had a left hip replacement in 2012 and a right hip replacement in 2015. The record indicates that she had left hip replacement surgery in October 2012, almost two years prior to the filing of her petition in August 2014, and at the time her doctor stated she was expected to return to work on or about January 1, 2013. Recent medical evidence submitted by the Petitioner documents her condition in July 2014 and a hip replacement in April

2015. However, as noted by the Director, there is insufficient evidence to conclude that her medical condition was such that she could not have traveled briefly in order to meet the Beneficiary in 2013, within the two-year period prior to the filing of the petition, and after her first hip surgery.

The Petitioner has also asserted that she cannot afford to travel to The Gambia. The record does not contain sufficient evidence to establish that she would have been unable to afford a short trip abroad to meet the Beneficiary. Without evidence to support her assertion that she was financially incapable of travelling to The Gambia or another country to meet the Beneficiary, the record does not establish that compliance with the requirement for a meeting during the requisite period would have resulted in extreme hardship to the Petitioner. We note that the financial commitments required for travel to a foreign country are a common requirement to those filing the Form I-129F petition, and the record does not establish that traveling to meet the Beneficiary would constitute extreme hardship to the Petitioner. The Petitioner has also asserted that she does not have a passport to travel to The Gambia, but there is no indication that she is or was unable to obtain a passport.

Based on these facts the record does not establish that the Petitioner would have experienced extreme hardship in order to travel to meet the Beneficiary during the requisite period.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of Y-C-D-*, ID# 15157 (AAO Feb. 9, 2016)