



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

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

MATTER OF D-T-V-

DATE: MAR. 4, 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 petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition because the Petitioner did not submit required initial evidence. Specifically, the Petitioner did not submit evidence to establish that he and the Beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) or establish that he merits a favorable exercise of discretion to exempt him from the meeting requirement. On appeal, the Petitioner submits evidence of his trip to Vietnam in April 2015 to meet the Beneficiary.

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

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 Form I-129F, including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice . . . Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

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. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

The Petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on December 9, 2014. Therefore, the Petitioner and the Beneficiary were required to have met in person between December 9, 2012 and December 9, 2014. When he filed the petition, the Petitioner submitted some but not all the required initial evidence. The Petitioner did not submit evidence to establish that he and the Beneficiary have satisfied the two-year meeting requirement or that he merits a favorable exercise of discretion to exempt him from such meeting requirement.

In a January 7, 2015, request for evidence (RFE), the Director asked the Petitioner to submit evidence showing either that he met the Beneficiary in person during the requisite time period or that he merits a waiver of the meeting requirement. In response, the Petitioner submitted a copy of travel itinerary for the Petitioner's intended travel to Vietnam in April 2015 and a statement indicating the reasons he had not been able to visit the Beneficiary within the requisite time period. The Petitioner indicated that he would submit additional evidence following his trip to Vietnam in April 2015.

The Director found the evidence submitted insufficient to establish eligibility for the benefit sought and on March 19, 2015, denied the petition accordingly. In denying the petition, the Director determined that the Petitioner had not established that he and the Beneficiary met in person during the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act, and that the evidence submitted did not establish that meeting the Beneficiary as required would result in

extreme hardship to the Petitioner or violate strict and long-standing customs of the Beneficiary's foreign culture or social practice.

The Petitioner has not claimed that he and the Beneficiary met in person between December 9, 2012, and December 9, 2014, the two-year period immediately preceding the filing of the Form I-129F, but states that he was not able to meet the Beneficiary within the requisite period because of time and financial constraints and because he had not accrued sufficient vacation time at his new job. The Petitioner has not submitted financial documentation for the requisite two-year period or other documentation to support the claim that he could not afford to travel to Vietnam, even for a short period of time. We note that the time and 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 submits evidence of a trip to Vietnam in April 2015, consisting of airline boarding passes, a travel itinerary, and photographs of himself and the Beneficiary, but this meeting falls outside the requisite period for the current petition. The evidence of the couple's meeting in April 2015 would be relevant to a new fiancé(e) petition that the Petitioner may file for the Beneficiary in the future. It has no relevance to whether the Petitioner and the Beneficiary met during the period applicable to this petition.

We therefore affirm the Director's determination that the Petitioner has not provided sufficient evidence to establish that he and the Beneficiary met in person during the two-year period immediately preceding the filing of the petition or establish that he 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).

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 291 of the Act, 8 U.S.C. § 1361. 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 D-T-V-*, ID# 15633 (AAO Mar. 4, 2016)