



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

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

MATTER OF B-A-B-

DATE: MAR. 7, 2016

MOTION ON 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(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, Texas Service Center, denied the petition, and we dismissed a subsequent appeal. The matter is now before us on motion to reopen. The motion will be denied.

The Director denied the nonimmigrant visa petition, finding the Petitioner failed to establish that she met the Beneficiary in person during the two-year period before she filed the petition or that such meeting requirement would impose extreme hardship on the Petitioner. On motion, the Petitioner submits her updated statement and additional evidence to support the claim that meeting the Beneficiary during the two years preceding her petition filing would have caused her extreme hardship.

I. APPLICABLE LAW

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

(b)(6)

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(USCIS) 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.

II. FACTUAL AND PROCEDURAL HISTORY

The Petitioner filed the Form I-129F on September 30, 2013 without sufficient supporting evidence. For this reason, the Director denied the petition on May 13, 2014. We dismissed the Petitioner's appeal of the denial on January 13, 2015. On February 17, 2015, the Petitioner filed the motion to reopen presently before us.

As noted, the Director concluded the Petitioner failed to submit evidence that she and the Beneficiary had met during the two-year period immediately preceding the filing of the petition as required under section 214(d) of the Act, or that she merits a waiver of the meeting requirement. On motion, the Petitioner claims it would have caused her financial hardship to travel to Mexico to meet her fiancé between September 30, 2011 and September 30, 2013, the two-year period immediately preceding the filing of the petition, and 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).

III. ANALYSIS

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 Petitioner asserts that traveling to Mexico would have imposed a hardship because of the travel costs, the impact on her work, and family responsibilities. She submits W-2 forms documenting income of approximately \$24,000 in 2012, \$32,000 in 2013, and \$35,000 in 2014. The record reflects that the Beneficiary and Petitioner resided together before he was deported to Mexico in 2009, they have one child together, and she and her son have been living with her parents since he was born in [REDACTED]. She also submits evidence that her step-father is not working, due to a disability for

which he is receiving government benefits, and her mother has physical limitations. In addition, she submits her son's birth certificate and medical records.

Although the Petitioner has shown that her son has been receiving treatment since 2013 for delayed language skills and diabetes insipidus, she has not established that these conditions imposed expenses amounting to financial hardship or prevented her from traveling to Mexico during the two-year period. With respect to her claims of financial hardship, the record includes evidence that the Petitioner has been paying no rent to her parents, thus alleviating part of her financial burden. She has not provided evidence that her monthly contributions toward food and other household costs were burdensome. The evidence shows that she maintains a medical insurance policy that covered her son, and documentation also shows that her mother has contributed to her grandson's care by accompanying him for laboratory testing. Finally, there is nothing in the record supporting her claim to be unable to take several days of leave from work or any documentation of the cost of travel to Mexico.

Regarding the claim that her son's medical condition makes him unable to accompany her or to remain in the care of relatives, there is insufficient documentation of the nature or severity of his condition to support either assertion. After reviewing medical records of the Petitioner's son, we observe that no treatment provider indicates that he was unable to travel or that he so required his mother's presence that she could not travel to Mexico, even for a short period. Absent an explanation in plain language from the treating physician of the exact nature and severity of any condition and a description of any treatment or family assistance needed, we are not in the position to reach conclusions concerning the severity of a medical condition or assistance needed. The record indicates that one or both of the Petitioner's parents are not employed and they were living in an extended family household with their daughter and her son throughout the two-year requisite period. There is evidence that her son is attending school with other children, as well as documentation that he has received services from a childcare provider she has paid since 2012. While the Petitioner claims her son's need for regular medication represents a hardship factor, there is no evidence of what medication he had been prescribed or that such medication could not be administered by someone other than the Petitioner.

Due to the foregoing circumstances, we find that the Petitioner has not met her burden of showing that traveling to Mexico from her home in Florida would have represented an extreme hardship, whether her son accompanied her on the visit or remained in the United States in the home he has shared with his grandparents. While sensitive that travel would have caused some disruption to the Petitioner's life, she has not established that visiting her fiancé in Mexico between September 30, 2011, and September 3, 2013, would have risen beyond inconvenience and resulted in hardship that is extreme.

IV. CONCLUSION

The motion will be denied 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. 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.

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ORDER: The motion to reopen is denied.

Cite as *Matter of B-A-B-*, ID# 12995 (AAO Mar. 7, 2016)