



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

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

MATTER OF H-Z-Y-

DATE: MAR. 31, 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 establish that she met the Beneficiary in person within the two-year period immediately preceding the filing of the Form I-129F, Petition for Alien Fiancé(e), or demonstrate that she merits a favorable exercise of discretion to exempt her from such meeting requirement. On appeal, the Petitioner submits a statement indicating that she is willing to travel and meet the Beneficiary, but her work and school schedule do not permit her to do so at the moment.

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 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 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 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 fiancé(e) petition with USCIS on February 3, 2012, without sufficient supporting evidence. For this reason, on June 21, 2012, the Director issued a request for evidence (RFE) requesting additional documents, including proof of the Petitioner's US citizenship and evidence that the Petitioner and the Beneficiary met in person within two years immediately preceding the filing of the petition. The Petitioner responded with some but not all the documents requested. The Petitioner did not provide evidence demonstrating that she and the Petitioner met in person within two years immediately preceding the filling of the Petition. The Director found the evidence insufficient and denied the petition accordingly. The Petitioner timely filed an appeal. On appeal, the Petitioner submits a statement requesting a waiver from the meeting requirement because her work and school schedules do not permit her to fulfill the meeting requirement.

The Petitioner has not claimed, nor has she submitted evidence to demonstrate that she and the Beneficiary have met in person between February 3, 2010 and February 3, 2012, which is the two-year period immediately preceding the filing of the petition. The evidence in the record shows that the Petitioner and the Beneficiary had met in person in Liberia in March 2009, which is outside the two-year requisite period. The Petitioner's statement on appeal that she was unable to meet the Beneficiary within the two-year period because of her work and school schedule does not establish that meeting the Beneficiary as required would result in extreme hardship to the Petitioner. The Petitioner does not submit any evidence concerning her employment or studies to substantiate her claim that she was unable to travel to Liberia or to another country, even briefly, to meet the Beneficiary during the two

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years before she filed the petition. 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.

Based on the evidence of record, the Petitioner has failed to establish that compliance would result in extreme hardship to her and that she merits a favorable exercise of discretion to exempt her from the meeting 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 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. 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 H-Z-Y-*, ID# 15831 (AAO Mar. 31, 2016)