U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-S-K-

DATE: JULY 6, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as her fiancé. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) (and that person's children) to the United States in K nonimmigrant classification for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) 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 90 days of the beneficiary's admission as a K nonimmigrant.

The Director, California Service Center, denied the fiancé(e) petition, concluding that the Petitioner did not establish that she and the Beneficiary personally met within the two-year period immediately preceding the filing of the fiancé(e) petition or that the Petitioner had established eligibility to waive this requirement.

The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and states that she was unable to meet the Beneficiary because of the Ebola outbreak.

Upon *de novo* review, we will sustain the appeal.

I. APPLICABLE LAW

Subject to subsections (d) and (r) of section 214 of the Act, 8 U.S.C. § 1184(d) and (r), nonimmigrant K classification may be accorded to an alien who "is the fiancee or fiance 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 . . . ." *See* section 101(a)(15)(K)(i) of the Act.

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if the petitioner establishes that the parties have previously met in person within two years before the date of filing the fiancé(e) 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 90 days after the beneficiary's arrival. U.S. Citizenship and Immigration Services (USCIS) maintains the discretion to waive the requirement of an in-person meeting between the two parties if compliance would either result in

extreme hardship to the petitioner, or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *See* section 214(d)(1) of the Act; 8 C.F.R. § 214.2(k)(2). When determining whether extreme hardship prevented a petitioner from meeting a beneficiary, we generally look at whether, during the two-year period, there existed any circumstances that were (1) not within the power of the petitioner to control or change; and (2) likely to last for a considerable duration or the duration could not have been determined with any degree of certainty.

II. ANALYSIS

The Petitioner filed the fiancée petition with U.S. Citizenship and Immigration Services (USCIS) on June 3, 2015, and was therefore required to have met the Beneficiary in person at some point from June 3, 2013, and June 3, 2015. The Petitioner states that extreme hardship prevented her from meeting the Beneficiary during the required time period because of the Ebola outbreak and travel restrictions in Sierra Leone and West Africa. She states that she and the Beneficiary met in person in 2011, and that she was struggling to save the resources to visit the Beneficiary again. The Petitioner contends that by the time she had accumulated the funds to travel there was an outbreak of Ebola in Sierra Leone and West Africa resulting in quarantines that made it difficult to travel in and out of Sierra Leone, and that she would have otherwise risked her life by entering the country. With the appeal the Petitioner submits a Centers for Disease Control and Prevention report and other accounts about Ebola and Sierra Leone.

We note that on July 31, 2014, the Centers for Disease Control and Prevention published a travel warning over concerns about an outbreak of the Ebola virus and warned U.S. residents against non-essential travel to Sierra Leone. The U.S. Department of State issued a travel warning for Sierra Leone on August 14, 2014, and on October 21, 2014, the Department of Homeland Security announced travel restrictions at U.S. ports of entry for travelers from the three West African Ebola-affected countries. The Department of State removed the travel warning for Sierra Leone on November 4, 2015, and a travel alert for parts of West Africa was removed on December 4, 2015. On December 22, 2015 the United States removed enhanced screening and monitoring for travelers from Sierra Leone.

Although the period during which the Petitioner and Beneficiary were required to meet in person began prior to the Ebola outbreak, the subsequent travel restrictions and health warnings covered a significant segment of that period and continued until after the fiancé(e) petition was filed. The Petitioner was therefore unable to travel during much of the time she was to have met the Beneficiary or otherwise would have traveled at considerable health risk, and the situation also restricted the Beneficiary's ability to travel to a third country to meet the Petitioner.

The evidence establishes that it would have been extreme hardship to the Petitioner to have met the Beneficiary during the required two-year period. We therefore waive the required personal meeting between the Petitioner and the Beneficiary as a matter of discretion pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

III. CONCLUSION

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; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of F-S-K-*, ID# 17020 (AAO July 6, 2016)