U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 12138222

Date: APR. 12, 2021

Appeal of a California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks the Beneficiary's admission to the United States under the fiancé(e) visa classification. See Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i) (the "K-1" visa classification). A U.S. citizen may petition to bring a fiancée to the United States in K-1 status for marriage.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not provide sufficient documentation of an in-person meeting with the Beneficiary during the two-year period prior to filing the petition or that he merits a discretionary waiver of the personal meeting requirement. The Director also found that the Petitioner did not submit a statement or other evidence of the Beneficiary's bona fide intent to marry him within 90 days of her admission into the United States. On appeal, the Petitioner provides a statement and submits additional evidence.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.[1] The Administrative Appeals Office (AAO) reviews the questions in this matter de novo.[2] Upon de novo review, we will dismiss the appeal.

I. LAW

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. Id.; 8 C.F.R. § 214.2(k)(2).

Evidence of an intention to marry may include statements of intent to marry signed by both the petitioner and the beneficiary or any other evidence that establishes mutual intent. Form I-129F,

[1] Section 291 of the Act; Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010).
[2] *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

Instructions for Petition for Alien Fiancé(e), at 11 (reiterating the requirement that the petitioner must submit evidence of a bona fide intention to marry); see also 8 C.F.R. § 103.2(a)(1) (providing that "[e]very form, benefit request, or other document must be submitted ... and executed in accordance with the form instructions" and that a "form's instructions are . . . incorporated into the regulations requiring its submission").

II. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, we conclude that the Petitioner has not demonstrated that met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. Specifically, the record does not establish (1) the Petitioner and Beneficiary have previously met in person within two years before the date of filing the fiancé(e) petition; and (2) that the Beneficiary intends to marry the Petitioner within 90 days of her admission into the United States.

As the Petitioner did not initially submit any evidence with his petition, the Director issued a notice of intent to deny (NOID) requesting, in part, evidence that the Petitioner and the Beneficiary have previously met in person within the relevant two-year period between July 30, 2017, and July 30, 2019, or to establish that a personal meeting within the relevant period would result in extreme hardship to the Petitioner or violate the Beneficiary's strict and long-established customs, foreign culture, or social practice. In the NOID, the Director stated that such evidence may include, inter alia, copies of travel documents, including tickets and hotel accommodations, and photocopies of the parties' passports, including biographical pages and pages showing entry and exit stamps. The Director also advised the Petitioner that the in-person meeting requirement may be waived if meeting would cause him extreme hardship or would violate the Beneficiary's strict and long-established customs, foreign culture, or social practice. The NOID also instructed the Petitioner to present evidence from the Beneficiary of her intent to marry within 90 days of her admission into the United States.

The Petitioner responded to the NOID with additional evidence, however the Director determined that it did not establish that he and the Beneficiary had personally met within the two-year period immediately prior to filing the petition. The Director found, specifically, that the Petitioner's statement, undated photos, and the Filipino residency identification card were insufficient to establish the two-year meeting requirement was satisfied. Further, the Director noted that the Petitioner did not claim an exemption from the two-year requirement. Moreover, the Director also determined that the Petitioner had not submitted evidence of the Beneficiary's intent to marry.

On appeal, the Petitioner submits additional evidence, including a photocopy of a passport page bearing an April 20, 2018 departure stamp from the Philippines, an April 19, 2018 receipt issued by the U.S. embassy in Manila, a letter from one of the Beneficiary's children, pictures that were posted to the Beneficiary's Facebook account, and instant messenger posts between the Petitioner and the Beneficiary. The Petitioner also provides a statement asserting the pictures were taken "within the last two years" and indicates he and the Beneficiary have lived together in the Philippines.

Although the U.S. embassy receipt and the passport departure stamp do appear to establish the Petitioner was in the Philippines on April 19 to 20, 2018, the evidence in the record is insufficient to

establish that the parties met within the relevant two-year period. According to the submitted statements, the Petitioner attests that he has lived in the Philippines for six years, and has lived with the Beneficiary for five years. However, the Petitioner does not clearly establish when he lived with the Beneficiary because neither statement provides the dates he lived in the Philippines or the date his relationship with the Beneficiary began. Likewise, the residency information card does not demonstrate when the Petitioner became a resident or that he was a resident during the two-year filing period to confirm that the Petitioner was living in the Philippines. Nor are the undated photos included with the NOID and the undated images printed from the Beneficiary's Facebook posts sufficient to corroborate claims that the Petitioner and Beneficiary met during the required time period. Also, the Beneficiary's Facebook posts do not demonstrate when the photos were taken but rather when they were posted on social media. Nor does the Petitioner claim exemption from the in-person meeting requirement. As such, the Petitioner has not established that the parties have previously met in person within two years before the date of filing the fiancé(e) petition, or that a discretionary waiver of the two-year in person meeting is warranted.

Additionally, the Petitioner does not establish the Beneficiary's intent to marry the Petitioner. On appeal, the Petitioner provided printouts of instant messages he and the Beneficiary exchanged. In one of the conversations, the Beneficiary does appear to tell the Petitioner to marry her and thanks the Petitioner for all of his "plans." However, we will not consider this single, and very brief, instant message exchange an official statement by the Beneficiary articulating her intention. Regardless, the conversation does not establish the Beneficiary's intention to marry him within 90 days of her admission into the United States, as required by the Act and relevant form instructions. In the absence of a written statement from the Beneficiary providing for her intention to marry the Petitioner within the requisite timeframe, or other evidence indicative of the same, the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

III. CONCLUSION

The Petitioner has not established (1) that the parties have previously met in person within two years before the date of filing the fiancé(e) petition, or that a discretionary waiver of the two-year in person meeting is warranted; and (2) that the Beneficiary intends to marry the Petitioner within 90 days of her admission into the United States. As such, the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. We note, however, that the denial of this petition is without prejudice to the filing of another fiancé(e) petition at a future date once the statutory requirements are met.

ORDER: The appeal is dismissed.