U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 12532322

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 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 asserts that the Director erred and provides a brief.[1]

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.[2] The Administrative Appeals Office (AAO) reviews the questions in this matter de novo.[3] 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).

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[1] The Petitioner's Form I-290B, Notice of Appeal or Motion, was received on April 1, 2020. On the Form I-290B, the Petitioner indicated they would submit a brief and/or additional evidence to the AAO within 30 calendar days of filing the appeal; however, AAO has not received any additional documents. The decision will be based on the current record available.

[2] Section 291 of the Act; Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010).

[3] *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

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, 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

The Petitioner submitted the instant fiancé(e) petition in August 2019. The Director issued a request for evidence (RFE), requiring, in part, that the Petitioner submit evidence from the Beneficiary establishing her intent to marry the Petitioner within 90 days of her admission into the United States. In response to the RFE, the Petitioner submitted a "save the date" reservation document from a Justice of the Peace bearing both the Petitioner and Beneficiary's names. The Director found that the document did not demonstrate the Beneficiary's intent to marry the Petitioner, and accordingly, the Director denied the fiancé(e) petition.

On appeal, the Petitioner argues that since the reservation document lists the Beneficiary's name, it alone is sufficient to establish the Beneficiary's intent to marry the Petitioner. However, he does not submit any evidence from the Beneficiary herself articulating her 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 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.

Additionally, at the time of filing the appeal, the Petitioner states he would attempt to obtain an affidavit with an original signature from the Beneficiary. As previously noted, the appeal was received on April 1, 2020, but no additional documentation has been received by the time of this decision.

III. CONCLUSION

Because the record does not include evidence establishing that the Beneficiary intends to marry the Petitioner within 90 days of her admission into the United States, 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.