U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16270306

Date: JUN. 10, 2021

Appeal of 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.[1] A U.S. citizen may petition to bring a fiancé(e) to the United States in K-1 status for marriage.

The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), concluding that the Petitioner did not submit sufficient evidence demonstrating that the parties personally met within the two-year period immediately preceding the filing of the petition or that he merits a discretionary waiver of the personal meeting requirement.

On appeal, the Petitioner asserts the Director erred in denying a discretionary waiver of the in-person meeting requirement and submits two letters in support. Upon de novo review,[2] we will dismiss the appeal.

I. LAW

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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.[3] A petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence.[4]

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[1] 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).

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

[3] Id.; 8 C.F.R. § 214.2(k)(2).

[4] See Matter of Chawathe, 25 I& N Dec. 369, 375-76 (AAO 2010).

II. ANALYSIS

Upon review of the record in its totality, we conclude that the Petitioner has not demonstrated that he merits a discretionary waiver of the two year in-person meeting requirement.

The Petitioner filed the fiancé(e) petition on November 4, 2019 and requested a waiver of the two year in-person meeting requirement. The Petitioner asserts that compliance with the requirement would violate strict and long-established customs of the Beneficiary's foreign culture or social practice but acknowledges the parties could meet with a chaperone present. The Petitioner states it is difficult for him to travel to Gaza, where the Beneficiary resides, explaining that in 2005 he encountered a four hour wait time to enter Gaza because he was using a U.S. passport and is Palestinian. When departing, he was detained and told he could not leave without a Palestinian identification card and passport. The Petitioner then states he was unable to return in 2007 and 2010 to Gaza because the "border was closed." The Petitioner states he and the Beneficiary "considered" meeting elsewhere but he believes the Beneficiary would "run the same risk" as he did in 2005. The Petitioner does not explain why he believes the Beneficiary would be similarly detained.

The Director's request for evidence (RFE) explained, among other things, that the Petitioner needed additional support to merit a discretionary waiver of the personal meeting requirement. Specifically, the Director requested evidence of the difficulties the Petitioner described traveling to Gaza, documentation supporting his belief that the Beneficiary would have difficulties traveling, and the parties' efforts to see each other within the two year period prior to filing the petition, noting it was not necessary for them to have met in Gaza. In his response, the Petitioner states he does not have documentary proof to support his experiences traveling to Gaza but notes they were enough for him to "fear trying to return." The Petitioner did not provide independent evidence documenting travel abroad restrictions for Palestinians living in Gaza that would have prevented the Beneficiary's travel in the two years immediately prior to the petition's filing. Nor does the Petitioner provide evidence of the parties trying to meet outside of Gaza. The Petitioner includes a letter by the Beneficiary who states, "I have already talked about my attempt to meet my fiancé in a third place" but no such documentation is in the record. The Petitioner has therefore not established that he and the Beneficiary would be unable to meet outside of Gaza or that traveling to meet the Beneficiary would violate her foreign culture or social practices.

In response to the RFE the Petitioner also states he is unable to travel because his doctor "advised against [] traveling." The Petitioner submits a letter by his doctor, who states the Petitioner has been in his care for "15 years" and has "a number of chronic persistent medical conditions that make it inadvisable for him to travel internationally." The doctor does not clarify these conditions or explain why it would make travel inadvisable. The Beneficiary's letter explains that the Petitioner has a "severe lesion of the neck" which makes it "difficult" for the Petitioner to return to "his homeland" but this letter also lacks detail. The Director notes these issues in the decision denying the petition.

On appeal, the Petitioner includes a second letter from the same doctor, who states, the Petitioner has been his patient for "10 years," a change from his previous letter. The doctor clarifies that the Petitioner suffered "an occupational injury in 2010 . . . [which] was severe enough that he was not able to return to his occupation as a forklift driver . . . and is generally regarded as unemployable." The doctor's statements are however inconsistent with the petition which states the Petitioner worked

from 1997 to 2014 as a "material handler." These inconsistencies are not explained.[5] The doctor also explains the Petitioner's health issues and states international travel would "risk [] worsening of [the Petitioner's] cervical disc disease, radiculopathy, and chronic arm pain." Supporting medical documentation is not included and the doctor does not explain how traveling would worsen these symptoms or whether these conditions prevented the Petitioner's travel in 2017 to 2019. Furthermore, while the Petitioner references his doctor's belief that international travel would exacerbate his condition, he does not indicate that he has not traveled internationally since 2010.

To determine whether a petitioner has met its burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence.[6] There are inconsistencies in the record that undermine the credibility of the Petitioner's assertions and the Petitioner did not provide sufficient evidence to establish his assertions. For these reasons, the record does not demonstrate that compliance with the in-person meeting requirement would result in extreme hardship to the Petitioner and he merits a discretionary waiver of the two year in-person meeting requirement.

Because we conclude that the Petitioner did not demonstrate eligibility for the discretionary waiver of the two-year meeting requirement, we need not address other issues evident in the record. However, we briefly note that the record does not establish the bona fides of the parties' relationship, which is an additional ground of ineligibility. For example, the parties refer to each other as fiancé(e), however, evidence of their engagement, such as details on any and all aspects of the traditional arrangements that have been met in accordance with their custom or practice are not in the record. The Petitioner states the Beneficiary has been a friend of his family for many years, however, details surrounding their relationship, e.g., how they were introduced, how they maintain their relationship, are not provided. While both parties state they speak daily to each other, there is no supporting documentation of these online discussions in the record.

III. CONCLUSION

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 pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

ORDER: The appeal is dismissed.

[5] The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988).

[6] Id. at 376; Matter of E-M-, 20 I&N Dec. 77, 79-80 (Comm'r 1989).