U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16729092

Date: JUN. 11, 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 (Director) denied Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) 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. 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).

[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).

II. ANALYSIS

The Petitioner filed the fiancé(e) petition on January 3, 2020, and he was therefore required to have met the Beneficiary in person at some point between January 3, 2018, and January 3, 2020 or to have requested a waiver of this requirement. In Part 2 of the fiancé(e) petition, the Petitioner checked "No" in response to the question regarding whether he had met the Beneficiary during the required two-year period and stated he is blind, cannot travel, and would be arrested for not serving in Iran's military if he visited there. As the Petitioner's initial submission and response to the Director's request for evidence (RFE) did not include sufficient evidence of an in-person meeting between the parties or documentation showing that he qualifies for a discretionary waiver of the required meeting, the Director denied the petition.[3]

As noted above, we may, in our discretion, waive the requirement of an in-person meeting between the parties if justification exists. The Director's RFE and denial notice informed the Petitioner about discretionary waivers based on extreme hardship to a petitioner or violation of strict and long-established customs of a beneficiary's foreign culture or social practice. The Petitioner's response stated that being blind makes traveling "extremely problematic" for him. In addition, the Petitioner also submitted a "disabled dependent certification form," a certification of blindness from the Texas Commission for the Blind, and results from the Petitioner's sequencing panel. The Director found that the evidence did not demonstrate that travel during the requisite meeting period would have resulted in serious consequences to the Petitioner's health or that travel would be medically unsafe. Consequently, the Director concluded that the response to the RFE was not sufficient to demonstrate that compliance with the meeting requirement would have violated strict and long-established customs of the Beneficiary's foreign culture or social practice, or that it would have resulted in extreme hardship to the Petitioner.

On appeal, the Petitioner states four reasons why he believes he qualifies for the discretionary waiver: (1) the Petitioner and Beneficiary are in an arranged marriage in which culturally the bride and groom cannot be in close proximity nor have any physical contact until married; (2) the Petitioner's blindness makes traveling difficult; (3) the Petitioner would be arrested if he goes to Iran for not serving in their military; and (4) international travel has been restricted due to the Covid-19 outbreak. Also, the Petitioner submits additional medical documents from the University of [redacted] College of Medicine, University [redacted] describing the Petitioner's vision; Texas eye examination report; and a picture of his father and the Beneficiary's father together.

As mentioned, the Petitioner asserts that an in-person meeting could not occur for cultural reasons. However, the Petitioner did not submit any documentation to verify or certify that a personal meeting would violate such customs or any evidence to establish that aspects of the traditional arrangements

[3] The Director's RFE asked the Petitioner to submit documentation of the required in-person meeting or to show that satisfying the meeting requirement would have caused him extreme hardship or have violated the Beneficiary's customs, foreign culture, or social practice. With respect to extreme hardship, the RFE stated: "You must request such a waiver in writing and must also submit evidence that includes, but is not limited to affidavits and/or documentation . . . that would establish that such a personal meeting would result in extreme hardship to you." In regard to the violation of the customs, the RFE stated: "You must request such a waiver in writing and must also submit documentation from competent authorities to verify or certify that a claim such a personal meeting would violate the strict and long-established customs of the beneficiary's foreign culture or social practice . . . . [Also,] evidence to establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom and practice."

have been or will be met in accordance with the custom and practice. The Petitioner's claims, alone, are not sufficient in this regard.[4] Therefore, the Petitioner has not demonstrated that fulfilling the in-person meeting requirement would violate strict and long-established customs of the Beneficiary's foreign culture or social practice.

Nor do the Petitioner's remaining claims meet his burden of proof. With regard to military service, we find once again that the Petitioner's unsupported claims, alone, are not sufficient to meet his burden of proof. If the Petitioner wishes for USCIS to consider his claimed obligation of Iranian military service (and possible incarceration if not fulfilled), he would first be required to submit evidence that the claimed obligation actually exists. And even if he did make the initial showing that this claimed obligation in fact exists for others in his general situation (sons of Iranian fathers), we would then be compelled to question: (1) whether, given his vision impairment, that general obligation still applies to him; and (2) why he and the Beneficiary cannot meet in a third country. As currently constituted, the record lacks evidence that even addresses any of these issues, let alone evidence satisfying the Petitioner's burden.

Nor are we persuaded by the Petitioner's claims regarding COVID-19. The requisite two-year period during which the Petitioner and Beneficiary were required to meet was the period between January 3, 2018 and January 3, 2020. Hardship due to COVID-19 was not the reason the couple did not meet during that period.

Finally, we turn to the Petitioner's vision impairment. We do not question whether he is in fact legally blind. To the contrary, the Petitioner submits medical records spanning nearly three decades, and we find them persuasive in that regard. Our inquiry, however, does not stop there. In order for the petition to be approved, the Petitioner must go on to establish, by a preponderance of the evidence, why traveling with his disability would result in extreme hardship. In other words, his testimony, while credible, is alone insufficient to satisfy his burden proof.

We do not question the very real consequences of the Petitioner's disability. However, the record as currently constituted is simply not sufficient to establish by a preponderance of the evidence that meeting the Beneficiary in person would rise to the level of "extreme hardship." While we find the medical records dispositive in terms of establishing the fact of the Petitioner's disability, not a single one addresses the issue of flying or even travel more broadly. For example, none of the documents discuss why flying or otherwise traveling abroad (whether to Iran or a third country) would be an extreme hardship to the Beneficiary. Nor is there any discussion anywhere in the record as to why any disability accommodations (assuming they exist – the record does not currently address the issue at all) offered by air carriers would not be sufficient to avoid extreme hardship to the Petitioner. Nor is there any discussion anywhere in the record regarding country conditions in Iran (or a third country to which the couple could travel) for individuals with disabilities like the Petitioner's. Finally, none of the provided medical documents state travel would be medically unsafe for the Petitioner or would cause serious health complications to the Petitioner.

[4] For example, although the Petitioner claims that "[a]ccording to the culture in Iran, the bride and the groom cannot be in the same room until they are married," he submits no evidence regarding Iranian cultural norms to back that claim. That unsupported claim, alone, is not sufficient to satisfy the preponderance standard.

In the totality, the record does not show that compliance with the in-person meeting requirement would result in extreme hardship to the Petitioner or violate strict and long-established customs of the Beneficiary's foreign culture or social practice. Therefore, the Petitioner has not demonstrated that he merits a discretionary waiver of the two year in-person meeting requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

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. 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.