



**U.S. Citizenship
and Immigration
Services**

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 19087244

Date: SEP. 30, 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 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 she merits a discretionary waiver of that 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 her within 90 days of his admission into the United States. On appeal, the Petitioner submits additional evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

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).

II. ANALYSIS

Upon review of the record in its totality and for the reasons set out below, we conclude that the Petitioner has not 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 met in person within the two-year period preceding the filing of the fiancé(e) petition; and (2) that the Beneficiary intends to marry the Petitioner within 90 days of his admission into the United States.

The Director issued a request for evidence (RFE) requesting, in part, evidence that the Petitioner and the Beneficiary met in person within the relevant two-year period (July 14, 2018 to July 14, 2020), or 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. The Director stated that such evidence could include, *inter alia*, copies of travel documents, including tickets and hotel accommodations; photocopies of the parties' passports, including biographical pages and pages showing entry and exit stamps; and affidavits from other individuals who have knowledge of the events the Petitioner is trying to prove. The RFE also instructed the Petitioner to present evidence from the Beneficiary of his intent to marry within 90 days of his admission into the United States.

The Petitioner responded to the RFE with additional evidence, including a statement from the Petitioner, two affidavits from parties who claim knowledge of the Petitioner's relationship with the Beneficiary, wedding-related correspondence with various vendors, and undated photos. However, the Director determined that it did not establish that she and the Beneficiary had personally met within the two-year period immediately prior to filing the petition. The Director found, specifically, that the undated photos were insufficient to establish the two-year meeting requirement was satisfied. 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 dated photos and an intent letter from the Beneficiary. Two of the photos do display date-stamps within the two-year required timeframe.¹ However, while certainly relevant, given the relative ease with which a camera's date-stamping program can be manipulated we conclude that these photos, alone, are insufficient to establish that the parties met within the requisite two-year timeframe. The Petitioner has not provided sufficient probative evidence to supplement these date-stamps, such as passport stamps, tickets, or receipts to establish the Petitioner and/or Beneficiary were in the locations and dates indicated in the photos. Likewise, the Petitioner's and Beneficiary's statements that they met within the required period are insufficient without substantive documentation. Nor does the Beneficiary adequately explain why granting the discretionary waiver would be justified. 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 sufficiently establish the Beneficiary's intent to marry the Petitioner. On appeal, the Petitioner submits a notarized letter of intent from the Beneficiary.

¹ The Petitioner submitted a total of three photos on appeal. The third photo is not relevant to this analysis as it was dated outside the relevant timeframe.

Although the Beneficiary states his intent to marry the Petitioner, the notary's statement that the Beneficiary "personally appeared" before the notary in California undermines the credibility of this document. In other words, the notary's statement appears incongruous with the record, as the Beneficiary needs the fiancé(e) petition so he can enter the United States. There is no indication the Beneficiary can enter the United States prior to approval of the instant petition. The Petitioner must resolve this incongruity in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591 (BIA 1988). As such, we question the credibility of the Beneficiary's intent letter and decline to assign it any significant evidentiary weight toward establishing his bona fide intention of marrying the Beneficiary. In the absence of other evidence from the Beneficiary providing for his intention to marry the Petitioner within the requisite timeframe, 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 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 his 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.