U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20946555

Date: APR. 1, 2022

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. *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 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 the Petitioner merits an extreme hardship discretionary waiver of this requirement.

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. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if a 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 a beneficiary's arrival.

The regulations require a petitioner to establish to the satisfaction of the Director that the petitioner and beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the Director may exempt a petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of a beneficiary's foreign culture or social practice. Failure to establish that a petitioner and beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. 8 C.F.R. § 214.2(k)(2). An applicant or petitioner must establish that she or he is eligible for the requested benefit at the time of filing the application or petition. 8 C.F.R. § 103.2(b)(1).

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 personal meeting requirement.

The Petitioner filed the fiancé(e) petition in July 2020 and explained that he had not complied with the two-year personal meeting requirement because he is a disabled veteran, and that traveling a long distance would cause him extreme hardship. The Director issued a request for evidence (RFE) explaining that additional evidence of extreme hardship was required to merit a discretionary waiver of the two-year personal meeting requirement. Specifically, the RFE requested proof explaining how the Petitioner's medical conditions prevented him from traveling to meet the Beneficiary. Furthermore, the Director noted that although the documentation provided showed the Petitioner receives medical and therapy treatments, there was insufficient evidence to demonstrate the level or frequency of treatments required, or if the treatments were unavailable to him in the Beneficiary's home country. The Director also noted that he had not established whether he and the Beneficiary had tried to meet in a third country closer to the United States.

In response, the Petitioner provided a personal statement explaining how his medical conditions, which are attributed to his U.S. military service, cause him back spasms, pain, and weakness in his legs which results in loss of strength and potentially collapse. He also explained that his mental health conditions cause anxiety and anger related occurrences, which could be harmful to him and passengers if he were to travel. Furthermore, he explained he has medical conditions which place him at risk for heart attack or stroke if he travels for any length of time. In his statement, he also claimed he is unable to dress himself, cook, or clean for himself. Finally, he claimed that his mother and a home health aide work together to help him get through his days. He explained that the Beneficiary tried to obtain a tourist visa in order to visit him in the United States but was unsuccessful. They also explored the possibility of meeting in a third country closer to the Petitioner, but the available options were not close enough to work. The Petitioner also provided a one-paragraph letter from his doctor, who stated that the Petitioner is a disabled military veteran with multiple health conditions. The doctor's letter explained that the Petitioner suffers from multiple physical and mental health problems and cannot stand or sit for longer than 15-20 minutes at a time. The doctor described that his conditions as chronic and severe.

The Director denied the petition finding that the evidence was insufficient to establish that compliance with the two-year personal meeting requirement would result in extreme hardship to the Petitioner. Specifically, the Director found that the medical documentation submitted did not properly connect the Petitioner's health conditions to his inability to travel or what form of extreme hardship might result from the Petitioner traveling for lengthy, or short periods of time. Furthermore, the Director found the evidence from the Petitioner's doctor insufficient to establish what medications and therapy he undergoes, the extent of his treatment, and the frequency and level of assistance he requires. The Director also found insufficient evidence to show that the medical care required is unavailable in the Beneficiary's home country. Furthermore, the Director's decision pointed out that USCIS policy does not require only the Petitioner to travel to meet the Beneficiary, and that there was no evidence submitted to show that the Beneficiary had attempted to travel or made plans to travel. We agree with the Director's analysis of the evidence that was before her, as it consisted primarily of testimonial evidence – none of the claims of the Petitioner or his physician were backed by documentary evidence such as records of office visits, therapy

sessions, or medications. Nor was there any documentary evidence, such as health care benefits statements, bills, or any other type of records, that a home health aide assists him. We acknowledge the documentation from the Department of Veterans Affairs, which supports that the Petitioner is a disabled veteran suffering from a variety of military service related health care challenges, however this documentation does not relate to your ability to travel or any extreme hardship you might experience if you were to travel.

On appeal, the Petitioner submits a legal brief, copies of chat messages he exchanged with the Beneficiary, and copies of previously-submitted evidence. The Petitioner does not, however, submit documentary evidence establishing his medical issues, and his reliance on testimonial evidence continues. In addition to remaining insufficient to establish his overall request for a grant of the discretionary waiver, the record's lack of documentary evidence creates a new problem for the Petitioner on appeal, as information contained in those chat messages introduces inconsistencies regarding the Petitioner's claimed medical disabilities and inability to work, which in turn creates ambiguity regarding the severity of his conditions and whether travel would in fact cause him extreme hardship. Specifically, while the Petitioner claims in the petition before us that he is unable to work due to his disability, he told the Beneficiary in the chat messages that he is a sound and lighting technician working in concerts, ballets, and fashion and dance shows, and states he has worked in that field for 15 years. Given the lack of documentary evidence present in this case, this inconsistency in the Petitioner's testimony is significant because it calls into question the reliability of that testimony. Left unresolved, it precludes the Petitioner from reaching the preponderance threshold.

We acknowledge the chat messages show an emotional connection between the Petitioner and the Beneficiary. However, that connection alone does not suffice to grant the Petitioner an extreme hardship exemption to the two-year personal meeting requirement. We also find the inconsistencies in his account of his disability and how it affects his ability to work to be problematic in so far as they undermine his claims.

We also acknowledge the Petitioner's documentation establishing that the Beneficiary applied for a tourist visa to enter the United States, and that the visa was denied twice. However, the Petitioner has not explained with any specificity why the couple has not made arrangements to fly to a third country in order to comply with the two-year personal meeting requirement. Again, while we note the Petitioner's claimed inability to travel due to his inability to dress himself, his risk of a heart attack, and his inability to sit or stand for longer than 15 minutes at a time, his claimed work as a sound and lighting technician at concerts and similar events undermines those claims.

In sum, the Petitioner's overall claim, which continues to be based primarily on unsupported testimonial evidence, remains insufficient to establish he merits a discretionary extreme hardship exemption.

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 personal meeting requirement is warranted pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The denial of this petition shall be without prejudice to the filing of a new fiancé(e) visa

petition once the parties fulfill the two-year personal meeting requirement or establish their eligibility for a discretionary waiver.

ORDER: The appeal is dismissed.