U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21761383

Date: APR. 20, 2022

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 regarding the Beneficiary's bona fide intent to marry her within 90 days of his admission into the United States. On appeal, the Petitioner provides additional evidence, including a letter explaining the basis of her appeal and a letter stating her intention to marry the Beneficiary within 90 days of his entry.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews 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 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).

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 on March 1, 2021 with supporting documents. The Director found this evidence insufficient to establish the Petitioner's eligibility for the benefit sought and issued a request for evidence (RFE) requiring that the Petitioner submit (1) a passport-style photo of the Petitioner, and (2) evidence from the Beneficiary establishing his intent to marry the Petitioner within 90 days of her admission into the United States.

The Petitioner's response included the requested passport-style photo of herself but nothing else. As a result, the Director determined the Petitioner's response was insufficient because the Petitioner did not provide any evidence of the Beneficiary's intention to marry the Petitioner within 90 days of his admission to the United States. Therefore, the Director concluded that the record did not demonstrate the Beneficiary's intent to marry the Petitioner, and accordingly, the Director denied the fiancé(e) petition.

On appeal, the Petitioner asserts that her previous counsel sent all the required evidence to demonstrate their intention to marry. In addition, the Petitioner submits additional evidence including two letters of her intent to marry the Beneficiary, bank statements, federal income tax documents, identity documents for the Petitioner and the Beneficiary, untranslated instant messages exchanged between the parties, remittance receipts, airline boarding passes and travel itineraries, the Beneficiary's passport-style photo, and photos of the Petitioner and the Beneficiary.

The evidence in the record is still insufficient to establish the Beneficiary's intent to marry the Petitioner within 90 days of admission into the United States. Specifically, the Petitioner does not submit any evidence from the Beneficiary himself articulating his intention to marry her within 90 days of his admission into the United States, as required by the Act and relevant form instructions. The letters of intent submitted on appeal detail the Petitioner's intent to marry the Beneficiary but do not evidence the Beneficiary's intent to marry the Petitioner. No other evidence provided by the Petitioner appears to have any bearing on the Beneficiary's intent to marry the Petitioner. In the absence of a statement from the Beneficiary providing for his 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.

Although not discussed by the Director, we also conclude that the record is insufficient to establish the Petitioner and the Beneficiary met in person within the two-year period preceding the filing of the petition on March 1, 2021. With their petition and on appeal, the Petitioner submitted photos of the couple together labeled "W.S 08-07-2012." The "2012" suggests that these photos were taken in the Gregorian Calendar year of 2012, which would have been outside the requisite two-year period of March 1, 2019 to March 1, 2021. The Petitioner has not provided any explanation or context for this label. Moreover, only one of the boarding passes establishes the Petitioner was in Ethiopia during the requisite two-year period. However, the boarding pass alone does not establish that the Petitioner met with the Beneficiary in person within the two-year period. In sum, the Petitioner has not provided

sufficient probative evidence to establish the Petitioner and the Beneficiary met in person within the requisite two-year period.

## III. CONCLUSION

The Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant, because the record does not establish 1) the Beneficiary intends to marry the Petitioner within 90 days of his admission into the United States and 2) the parties met in person within the requisite time frame. 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.