U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19595316

Date: DEC. 28, 2022

Appeal of California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancée to the United States in K nonimmigrant visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the 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 90 days of admission. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the parties had a *bona fide* intention to marry. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

In order to classify a beneficiary as their fiancé(e), a petitioner must establish, among other requirements, that the parties have a *bona fide* intention to marry within 90 days of the fiancée's admission to the United States. Section 214(d)(1) of the Act. The intended marriage cannot be for the sole purpose of obtaining an immigration benefit.

The sole issue on appeal is whether the Petitioner and Beneficiary have a *bona fide* intention to marry. In his initial filing, the Petitioner provided a letter stating that he met the Beneficiary online in November 2016, and that their relationship became romantic in May 2017 before they became engaged in Laos in September 2019. He also provided documentation of wire transfers he made to the Beneficiary between 2017 and 2019, Facebook chat screen captures from September to December of 2019, a Laotian engagement certificate, a letter from the Beneficiary, photographs, and documentation of his 2019 trip to Laos.

The Director issued a request for evidence (RFE) requesting, among other things, further evidence of the parties' *bona fide* intention to marry, such as information about how the parties met and became engaged, additional correspondence between the parties, and evidence of financial support and further travel to visit the Beneficiary. In response, the Petitioner provided more social media screen captures

and wire transfer receipts, a document from a potential wedding venue, and affidavits from himself, his cousin, and the Beneficiary's cousin.

The Director denied the petition, finding that the Petitioner had not established the parties' *bona fide* intention to marry. On appeal, the Petitioner submits an attorney brief, affidavits from himself and the Beneficiary, a certified translation of a small portion of the chats between him and the Beneficiary, and information about the Hmong community in North Carolina. He also states that the Director used an overly strict standard of proof and erred in interpreting the provided evidence.

Except where a different standard is specified by law, a petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Under the preponderance of the evidence standard, the evidence must demonstrate that a petitioner's claim is "probably true." *Id.* at 376. We examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. In this instance, there is insufficient credible, probative evidence to establish that the parties have a *bona fide* intent to marry.

As noted by the Director, while the Petitioner states that he and the Beneficiary met on Facebook in 2016 and started a romantic relationship in 2017, the provided chat history only dates back to September 12, 2019, three days before the Petitioner travelled to Laos to get engaged to the Beneficiary. Furthermore, all of the Facebook profiles and chats are under the names [redacted] and [redacted] While the Petitioner gives these names as aliases for himself and the Beneficiary, respectively, on the Form I-129F, there is no indication anywhere else in the record that the parties go by these names.

Additionally, the Facebook history consists of video chat notifications and messages in an untranslated foreign language. Any document containing a foreign language which is submitted to USCIS must be accompanied by a full English-language translation, as well as a certification from the translator that the translation is complete and accurate and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(2). While the appeal includes a certified translation of a small portion of the chat history, most of the history has no accompanying translation. We therefore cannot meaningfully determine what most of the messages say and whether they support the Petitioner's claims. Furthermore, the translated messages provide minimal information about the parties' relationship and marriage plans.

On appeal, the Petitioner states that the fact that the Facebook profiles include the parties' photographs is sufficient to demonstrate that those profiles belong to them and provides no explanation of why the profiles are under different names. He further states that translating the entire chat history would be too expensive and the existence of the video chats between the parties is "highly probative" of eligibility.[1] Finally, a letter provided in the initial evidence states that the Petitioner could not provide any chat history from before September 2019 because he deleted it from his phone to save space and

[1] It is noted that the chat logs provided with the initial evidence, which date from September to December 2019, do not state the length of any of the video chats. The logs provided in response to the RFE, which date from January to November 2020, are in a different font and format and do state the length of the video chats.

the Beneficiary lost her phone early in the year and created a new Facebook account. The letter provides no explanation for the lack of chat logs between early 2019, when the Beneficiary lost her phone, and September 2019, when the logs begin.

Where there are discrepancies in the evidence, the Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* The Petitioner has not resolved the questions regarding the dates of the chat logs or the names they are under, which undermines the credibility of the Facebook evidence.

On appeal, the Petitioner states that the parties' Laotian engagement certificate should suffice to establish eligibility. However, the English-language translation of this document does not include a certification of its completeness and accuracy from the translator, as required by 8 C.F.R. § 103.2(b)(2). Therefore, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims. Similar concerns apply to the affidavits from the Beneficiary stating her intention to marry the Petitioner.[2]

The only documentation of the parties' relationship that predates September 2019 is wire transfer receipts dating to May 2017. These receipts indicate that the Petitioner has been regularly wiring the Beneficiary money since this time. However, while this may support the Petitioner's intention to marry the Beneficiary, it does not evidence the Beneficiary's *bona fide* intention to marry the Petitioner. We further acknowledge the affidavits from the Petitioner's cousin and the Beneficiary's cousin, which state that they heard about the parties' relationship in 2017. However, the hearsay nature of these documents affects their evidentiary weight in these proceedings. *See Matter of D-R-*, 25 I&N Dec. 445, 462 (BIA 2011). Finally, the facility rental form from a potential wedding venue is not filled in, and there is no indication that the venue has been rented. Considered in the context of the totality of the evidence, these documents do not establish eligibility.

To determine whether a petitioner has met their burden of proof under the preponderance standard, we consider not only the quantity, but also the quality of the evidence, including its relevance, probative value, and credibility. *Matter of Chawathe*, 25 I&N Dec. at 375-76; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Much of the Petitioner's evidence lacks certified translations or has unresolved discrepancies which lower its evidentiary value. There is insufficient credible, relevant, and probative documentation of the claimed relationship to establish by a preponderance of the evidence that the parties have a *bona fide* intention to marry within 90 days of the Beneficiary's 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.

ORDER: The appeal is dismissed.

[2] The Petitioner submitted a properly translated affidavit from the Beneficiary on appeal. However, we do not accept new evidence on appeal where, as here, the Petitioner previously had notice of the required evidence and reasonable opportunity to provide it. *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988).