U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 19396396

Date: JAN. 10, 2022

Motion on Administrative Appeals Office 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 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 the personal meeting requirement. The Director also found that the Petitioner did not submit sufficient evidence of the Beneficiary's *bona fide* intent to marry her within 90 days of his admission into the United States. We agreed with the Director and dismissed the Applicant's appeal, concluding that the record did not establish the parties' *bona fide* intent to marry, or that they had a personal meeting within the two-year period prior to the filing of the fiancé(e) petition. The Applicant has filed a motion to reopen that decision.

On motion, the Applicant submits a statement, a marriage license, and resubmits other evidence already in the record.

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

## I. MOTION REQUIREMENTS

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen to instances where the applicant has shown "proper cause" for that action. Thus, to merit reopening, an applicant must not only meet the formal filing requirements (such as submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion. A motion that does not meet applicable requirements shall be dismissed. *See* 8 C.F.R. § 103.5(a)(4).

## II. 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).

## III. ANALYSIS

As a preliminary matter, we note that by regulation, the scope of a motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). The issue before us is whether the Petitioner has submitted new facts to warrant reopening or established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy. We incorporate our prior decision by reference and will repeat only certain facts and evidence as necessary to address the Petitioner's claims on motion.

As noted, a motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In our prior decision, we discussed the Petitioner's inconsistent evidence, the failure to establish the couple's *bona fide* intention to marry each other, and the lack of consistent evidence establishing that the couple previously met in person within two years before the date of the filing the fiancée petition.

On motion, the Petitioner asserts that she has established the couple's *bona fide* intent to marry, and submits a marriage license and receipt issued by the [redacted] Clerk's Office, in [redacted] Texas dated [redacted] 2021. The Petitioner disputes that she and the Beneficiary are not in a *bona fide* relationship and cites at least "10 years communicating with each other" as evidence of their *bona fide* relationship. As to the issue of whether she established she met the personal meeting requirement, she asserts that she personally met the Beneficiary several times between 2010 and 2019 in Cameroon, and provides copies of previously submitted copies of her passport pages with entry/exit stamps and four Cameroonian visitor's visas (issued on January 4, 2011 permitting entry for six months; issued on July 27, 2015 permitting entry for six months; issued on January 11, 2019 permitting entry between January 16, 2019 to April 16, 2019; and issued on June 20, 2019 permitting entry between August 13, 2019 and November 11, 2019) issued to her by the Cameroonian government. She also submits copies of previously submitted photographs, which she purports show her and the Beneficiary together on specific dates.

For the reasons discussed in our prior decision, and reiterated below, we conclude that the Petitioner has not satisfied the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. To begin, the relevant period during which the Petitioner is required to establish she met the Beneficiary is between May 28, 2017 and May 28, 2019, as such, the Petitioner's statement and evidence regarding any dates outside this period of time do not meet her burden. On motion, the Petitioner writes that she met the Beneficiary in Cameroon on four separate trips she made to that country, however, the only relevant trip for purposes of determining if she established the two-year

personal meeting requirement is her trip to Cameroon in January to February 2019. Toward proving that she met the Beneficiary during that particular trip, she writes "[o]ur pictures that you have with those dates were taken during those dates. We have really met in person between 2010 and 2019. How else could I have mentioned my January to February trip in 2019 since your letter said those dates were not mentioned in my petition." It is unclear what the Petitioner means when she states "[h]ow else could I have mentioned in my January to February trip in 2019 since your letter said those dates were not mentioned in my petition." For purposes of succeeding on this motion, the Petitioner would have to show new facts that would render our prior decision incorrect. As we explained in our prior decision, the Petitioner failed to meet her burden of establishing the two-year personal meeting requirement due to a lack of consistency in the evidence she submitted. Her statement does not address the consistency of the evidence or bring up new facts. Indeed, her statement creates even more ambiguity in the record because it is unclear what exactly she is disputing.

In our prior decision, we explained that the Petitioner's RFE response contained seven pages of photographs. These photographs, totaling sixteen photos total, included handwritten date notations. Most of the photos were labeled with the date June 20, 2016. There were two other dates handwritten on the photographs, "08/2019" and "09/12/2019," and "09/2019." None of these dates fell within the relevant two-year period of May 28, 2017 to May 28, 2019. In her January 2, 2020 statement, titled "Declaration of Meeting in the Last Two Years," the Petitioner provides a chart listing her three trips to Cameroon from 10/21/2009 to 01/16/2010, from 09/04/2015 to 06/20/2016, and from 08/12/2019 to 09/13/2019. Again, none of these dates fell within the relevant two-year period of May 28, 2017 to May 28, 2019. She does not mention or include her January to February 2019 trip to Cameroon in this statement or her chart. In another notarized statement titled "Affidavit of Fact," and signed by the Petitioner on January 3, 2020, she writes "[m]y trips to Cameroon in 10/2009-10/2010, 09/2015-06/2016 and in 08/2019." Once again, the Petitioner's trip dates do not fall within the relevant two-year period of May 28, 2017 to May 28, 2019. On motion, the Petitioner submits no new evidence or facts to establish that she meets her burden or that the date inconsistencies we pointed out in our prior decision were incorrect.

On motion, the Petitioner also states that she "strongly disagrees with the statement of your letter that says the marriage between my fiancé and I is not Bona fide. Whereas, we have spent the last 10 years communicating with each other." While we acknowledge the assertion, the Petitioner's statement does not submit new facts or evidence that would meet the motion requirements outlined above. However, she does submit a copy of a marriage license issued on [redacted] 2021 by [redacted] Texas, and the receipt of payment for that license. We acknowledge that the marriage license was issued after our decision, however the license alone does not overcome the other evidentiary issues we discussed in our prior decision. Furthermore, on appeal, the Petitioner provided evidence that she had applied for a marriage license, thus, since our prior decision took into consideration the totality of evidence, including the Petitioner's application for a marriage license, it is not persuasive.

In conclusion, the additional evidence submitted in support of the motion to reopen does not establish the Petitioner's burden under the statutory or regulatory requirements outlined in section II above. Therefore, the Petitioner's motion to reopen must be dismissed.

## IV. CONCLUSION

For the reasons discussed, the evidence provided in support of the motion to reopen does not overcome the grounds underlying our prior decision. The motion to reopen will be dismissed for the above stated reasons.

**ORDER:** The motion to reopen is dismissed.