U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21383838

Date: MAR. 21, 2022

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i). A U.S. citizen may petition to bring a fiancé(e) to the United States in K-1 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.

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner and Beneficiary had previously met in person within two years before the petition was filed or that the Petitioner merits a discretionary waiver of the personal meeting requirement.

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.

I. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if, among other requirements, a petitioner establishes that the parties have previously met in person within two years before the filing date of the fiancé(e) petition.

As a matter of discretion, U.S. Citizenship and Immigration Services may exempt a petitioner from this requirement only if the petitioner establishes that compliance would result in extreme hardship to them or if compliance would violate strict and long-established customs of a beneficiary's foreign culture or social practice. Failure to establish that the parties have met in person within the required period or that the requirement should be waived shall result in denial of the petition. 8 C.F.R. § 214.2(k)(2).

A petitioner must establish that they are eligible for the requested benefit at the time of filing the petition. 8 C.F.R. § 103.2(b)(1).

II. ANALYSIS

In this case, the Petitioner and the Beneficiary have not met in person. Thus, the issue on appeal is whether the Petitioner has established that he merits a discretionary waiver of the in-person meeting requirement. On the petition, the Petitioner requested a waiver of the in-person meeting requirement, asserting that he cannot travel to the Beneficiary's home country of Cambodia due to being a disabled military veteran with a sensitivity to hot climates. To support this claim, he provided his military discharge papers. In a letter included with the petition, the Petitioner further stated that he had tried to meet the Beneficiary in Hong Kong, South Korea, Taiwan, and Japan, but that due to COVID-19 travel restrictions, they were "not able to get proper credentials for travel."

The Director of the California Service Center denied the petition, finding that the Petitioner's military discharge papers did not mention any medical condition, injury, or disability that would prevent the Petitioner from travelling, and that no other medical documentation was provided to support the Petitioner's claim of having such a disability. The Director indicated that the Petitioner's two-year eligibility period for meeting the Beneficiary in person began in April 2019. Since COVID-19 travel restrictions were not put in place until March 2020, the Director found that the existence of such restrictions did not suffice to demonstrate eligibility for a waiver of the in-person meeting requirement.

On appeal, the Petitioner submits a signed letter from [redacted] which states that "due to [Petitioner's] underlying medical conditions," he does not recommend that the Petitioner "be exposed to extreme temperatures, high humidity and prolonged air travel as it may exacerbate his medical conditions that he is receiving treatment for."

First, it is noted that this letter does not specify what medical conditions the Petitioner is receiving treatment for or how, specifically, they have affected his health or ability to travel. Second, as noted in the Director's decision, the Petitioner was not required to travel by air or to be exposed to extreme temperatures or high humidity in order to meet the Beneficiary in person. If the Petitioner had difficulty travelling to the Beneficiary's home country, they could have met in a third country. While the Petitioner stated in his letter of support submitted with the petition that he had made attempts to meet the Beneficiary in countries with cooler climates, he did not provide any documentation to support this claim. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

The evidence of record does not demonstrate that compliance with the two-year in-person meeting requirement would result in extreme hardship to the Petitioner or violate strict and long-established customs of the Beneficiary's foreign culture or religious practice. We therefore conclude that the Petitioner has not established that he merits a favorable exercise of discretion to exempt him from the two-year in-person meeting requirement under section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

Beyond the decision of the Director, we also conclude that the Petitioner has not established the Beneficiary's *bona fide* intent to marry the Petitioner within 90 days of admission into the United States. The only documentation of the relationship between the parties consists of one letter each from the Petitioner, the Beneficiary's sister, and the Beneficiary's friend. The latter two letters, dated September 2021, state that the parties had been in a relationship for three years at the time of writing.

Despite this, the record contains no documentation of any direct communication between the Petitioner and Beneficiary, wedding plans, or statement from the Beneficiary herself. It is noted that the Beneficiary's divorce decree and the letters from her friend and sister are all translated into English from a foreign language, but do not include a statement from the translator certifying that the English language translation is complete and accurate and that the translator is competent to translate from the foreign language into English, as required by 8 C.F.R. § 103.2(b)(3). Because the translations do not include such a certification, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims. In the absence of a statement from the Beneficiary regarding for her intention to marry the Petitioner within the requisite timeframe, or other credible evidence indicative of the same, 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 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 pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). Further, the Petitioner has not established that the Beneficiary intends to marry the Petitioner within 90 days of her admission into the United States as required by section 214(d)(1) of the Act.

ORDER: The appeal is dismissed.