U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25425248

Date: MAY 01, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as their K-1 nonimmigrant fiancée. Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i). In order to do so, the Petitioner must establish that the couple met in person during the two-year period preceding the petition's filing, 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 met in person in the two years preceding the filing of the petition or that the Petitioner should receive a waiver of this requirement in the exercise of discretion. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

In order to classify a beneficiary as their fiancée, a petitioner must establish, among other things, that both parties have met in person in the two years preceding the date of filing the petition. Section 214(d)(1) of the Act. 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 the petitioner 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).

The Form I-129F, Petition for Alien Fiancée, was filed on May 17, 2021. Therefore, the Petitioner and Beneficiary were required to meet in person between May 17, 2019, and May 16, 2021. To demonstrate eligibility, the Petitioner initially submitted flight itineraries from March 2017 and February 2019, as well as photographs of the parties together. Because the itineraries were for trips that occurred before the qualifying two-year period, the Director issued a request for evidence (RFE)

requesting, among other things, documentation showing that the parties met in person in the two years preceding the filing of the petition or that the Petitioner should be granted a waiver of the in-person meeting requirement as a matter of discretion.

In response, the Petitioner provided airline itineraries and photographs showing that he had travelled to Nigeria to see the Beneficiary in person from June to July 2021 and from December 2021 to January 2022. The Director denied the petition, finding that these in-person meetings occurred after the fiancée petition was filed instead of during the qualifying two-year period. The Director further found that since the Petitioner did not claim that complying with the in-person meeting requirement would cause him extreme hardship, he did not qualify for a waiver of that requirement as a matter of discretion.

On appeal, the Petitioner provides a letter stating that he met with the Beneficiary in person in February 2019, prior to the beginning of the qualifying two-year period, and that afterwards he could not travel to see her in Nigeria because the COVID-19 pandemic caused a travel ban and furthermore made travel too dangerous for him given his health.[1] He also provides documentation regarding the February 2019 trip and medical reports from 2022 indicating that the Beneficiary had a miscarriage.

First, we note that several months of the qualifying two-year period occurred before the beginning of the COVID-19 pandemic. Second, while we acknowledge the Petitioner's concerns about travelling to Nigeria during the pandemic given his health, his letter does not address whether he and the Beneficiary attempted to meet in the United States or a third country. He also did not provide any medical documentation of his health condition or documentation of when travel bans prevented the parties from meeting. Finally, the documentation of the Beneficiary's miscarriage is dated after the relevant two-year period and does not indicate whether her health prevents her from traveling. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. He has not done so here. The record is insufficient to establish that complying with the in-person meeting requirement would have caused the Petitioner extreme hardship.

We acknowledge that the parties have met in person on multiple occasions. However, the in-person meeting requirement must be fulfilled in the two years preceding the filing of the fiancée petition. 8 C.F.R. § 214.2(k)(2). The Petitioner has not established that he and the Beneficiary fulfilled this requirement or that he should receive a waiver of it in the exercise of discretion. As such, the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

The denial of this petition shall be without prejudice to the filing of a new fiancée visa petition once the parties fulfill the in-person meeting requirement or establish eligibility for a discretionary waiver.

ORDER: The appeal is dismissed.

[1] The Petitioner does not claim, and the record does not establish, that complying with the in-person meeting requirement would violate strict and long-held customs of the Beneficiary's foreign culture or social practice.