U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27943200

Date: SEP. 13, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as his 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). For this classification, 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 couple met in person in the two years preceding the petition's filing 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.

I. LAW

In order to classify a beneficiary as their fiancée, a petitioner must establish, among other things, that both parties have a genuine intention to marry and that they 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 (USCIS) may exempt a petitioner from the two-year meeting requirement only if the petitioner establishes that compliance would result in extreme hardship to the petitioner or that 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).

II. ANALYSIS

A. Two-Year In-Person Meeting Requirement

Since the Petitioner does not claim that he and the Beneficiary met in person in the two years preceding the filing of the petition, the issue on appeal is whether he should be exempted from this requirement as a matter of discretion.

The Form I-129F, Petition for Alien Fiancé(e) in this case was filed on May 21, 2021. Therefore, the Petitioner and Beneficiary were required to meet in person between May 21, 2019, and May 20, 2021. In his initial filing, the Petitioner stated that he planned to meet the Beneficiary in person in 2020 but was unable to do so due to COVID-19-related travel restrictions. The Director issued a request for evidence (RFE) requesting, among other things, documentation establishing that complying with the in-person meeting requirement would cause the Petitioner extreme hardship or would violate strict and long-established customs of the Beneficiary's foreign culture or social practice.

In response, the Petitioner provided an explanatory letter, a travel itinerary for a May 2020 trip to Europe, an April 2020 request to cancel that trip, and an April 2020 credit card statement showing that he had received a credit from United Airlines. The Petitioner also provided photographs with captions indicating that he and the Beneficiary had met in person in 2008, 2014, and 2015. The Director denied the petition, finding that the record did not show whether the parties attempted to meet at another time during the relevant two-year period or establish what hardship the Petitioner would undergo if the in-person requirement were met.

On appeal, the Petitioner resubmits his 2020 travel documentation, which he states the Director failed to consider. He further states that after this trip was cancelled he and the Beneficiary "thought it would be best not to make any further travel arrangements until we had a better understanding of how the pandemic would affect us seeing each other in person safely." The letter does not indicate what travel options the parties have considered since the cancelled trip or what hardships those options would cause the Petitioner. It also does not indicate why the parties could not meet in person between May 2019 and March 2020, prior to the imposition of COVID-19-related travel restrictions. Therefore, the evidence on appeal does not establish that the Petitioner would suffer extreme hardship if the parties were to comply with the in-person meeting requirement.

The appeal letter goes on to state that shortly before the attempted trip, the Beneficiary "joined a religious organization that has a strict long-standing custom of looking unfavorably upon its single members who spend time alone with the opposite sex unchaperoned" and that the Beneficiary "could potentially be shunned for violating certain standards." This statement does not establish the Petitioner's eligibility for a waiver of the in-person meeting requirement. First, it does not specify what religious organization it refers to. Second, it is not accompanied by any supporting documentation of that organization's relevant customs or social practices. Thus, the statement does not establish by a preponderance of the evidence that these customs are strict and long-established and that complying with the in-person meeting requirement would violate them. *Chawathe*, 25 I&N Dec. at 375-76 (explaining that the preponderance of the evidence standard requires demonstrating that the fact to be proven is "probably true" using relevant, probative, and credible evidence).

Additionally, the Petitioner does not explain why he booked the May 2020 trip to meet the Beneficiary in Europe if, as claimed in the letter, she had already joined a religious organization that frowned upon such contact between them. Where there are material inconsistencies in the evidence, it is the Petitioner's burden to resolve these inconsistencies using independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The Petitioner has not provided such evidence in this case. Finally, the letter does not indicate why the parties could not meet in person with a chaperone in order to comply with the religious organization's beliefs and practices.

The Petitioner has not established that he should receive a waiver of the in-person meeting requirement as a matter of discretion.

B. Bona Fide Intention to Marry

Beyond the decision of the Director, we note that the record includes evidence casting doubt on the parties' intention to marry within 90 days of the Beneficiary's entry into the United States. *Id.* ("Doubt cast on any aspect of the petitioner's proof may . . . lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition."). While not mentioned in the RFE or denial, USCIS records indicate that the Petitioner previously filed fiancée visa petitions on the Beneficiary's behalf in 2002, 2003, 2008, 2015, and 2016. All of these petitions were approved except for the 2015 filing, which was withdrawn after the Director issued a notice of intent to deny based in part on how the parties' history of failing to marry pursuant to their approved visa petitions cast doubt on their bona fide intention to marry on that occasion.

The record further indicates that the State Department issued the Beneficiary K-1 nonimmigrant visas in 2002, 2008, and 2017. The Beneficiary entered the United States as a K-1 nonimmigrant in January 2009 and departed in April 2009, presumably without marrying the Petitioner. Given the number of times the Beneficiary has been issued K-1 visas without fulfilling the purpose of those visas and marrying the Petitioner, it is not apparent that either party has a bona fide intention to marry on this occasion. The Petitioner should be prepared to address this issue in any future fiancée visa filings.

III. CONCLUSION

The Petitioner has not established that he and the Beneficiary have fulfilled the in-person meeting requirement or that he should receive an exemption from it in the exercise of discretion. Furthermore, the record does not establish that he and the Beneficiary have a bona fide intent to marry each other within 90 days of the Beneficiary's arrival in the United States. Therefore, the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

ORDER: The appeal is dismissed.