U.S. Citizenship and Immigration Services

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

In Re: 28194065

Date: SEP. 26, 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 enter into 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 met within the two-year period immediately preceding the filing of the petition or that the Petitioner established he merited a waiver of this requirement. 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 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 this 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).

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 sole issue on appeal is whether he should be exempted from this requirement as a matter of discretion.

The Petitioner filed the fiancée petition on behalf of the Beneficiary on June 30, 2021. Thus, the relevant two-year period is from June 30, 2019 to June 29, 2021.

At the time of filing, the Petitioner explained that he had not traveled to see the Beneficiary during the preceding two years because of the COVID-19 travel restrictions. He provided an undated photograph of him and the Beneficiary together and claimed to have met her in February 2015 in Iran. Because he did not request a waiver of the meeting requirement, the Director requested additional evidence to establish, among other things, that either the in-person meeting requirement had been met or that compliance with this requirement would result in extreme hardship to the Petitioner.

The Petitioner's response was sufficient to establish that he personally met the Beneficiary before the relevant two-year period. He also explained that he did not travel between June 30, 2019 and June 29, 2021 because of COVID-19 travel restrictions and the pandemic's effects on his personal business. The Director denied the petition because the Petitioner did not request an extreme hardship waiver or submit sufficient evidence to show that compliance with this requirement would result in extreme hardship to him.

On appeal, the Petitioner submits a statement with additional evidence. He argues that, due to the diagnoses of ulcerative colitis and Philadelphia chromosome-positive chronic myeloid leukemia (Ph+ CML), he merits an extreme hardship waiver because he was unable to travel during the period from March 17, 2020 to February 21, 2023. In support, he provides a letter from his treating physician stating that during that time period, he was receiving treatment for his conditions. He also submits documentation from his healthcare provider and his employer explaining that he took a medical leave from work between June 1, 2018 and December 29, 2018 due to his health conditions. He asserts that travel with his conditions during the COVID-19 pandemic would have been so dangerous as to constitute extreme hardship to him.

We acknowledge that the Petitioner and Beneficiary have met in person before the relevant two-year period. The evidence also establishes that the Petitioner would have suffered extreme hardship if he had to travel during the period between March 17, 2020 and June 29, 2021 (the end-date of the two-year period). Nonetheless, section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2) require the parties to meet in person in the two years preceding the filing of the fiancée visa petition unless the petitioner can establish that this requirement should be waived as a matter of discretion. Here, the Petitioner did not submit evidence to establish what hardship he would have experienced if he were to have travelled between June 30, 2019 and March 16, 2020, a period of over eight months. Therefore, the Petitioner has not met his burden and we will dismiss the appeal.

**ORDER:** The appeal is dismissed.