



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 15 2015

FILE: [REDACTED]

PETITION RECEIPT: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Armenia, as the fiancée of a U.S. citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the petitioner failed to establish that he and the beneficiary met in person during the two-year period before he filed the Form I-129F, Petition for Alien Fiancé(e) (Form I-129F), or that he is exempt from this requirement. On appeal, the petitioner provides additional evidence, including a personal statement, a letter from his treating physician with supporting medical records, a letter from a clinical psychologist, a news article pertaining to the 2010 shooting incident during which the petitioner suffered multiple gunshot wounds and four of his friends were killed, and a letter from the beneficiary stating her intent to marry the petitioner within 90 days after her admission to the United States in K-1 status.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 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 a period of ninety days after the alien's arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective

bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for Form I-129F, including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

Factual and Procedural History

The petitioner filed the Form I-129F on April 7, 2014. On the Form I-129F, the petitioner responded “yes” to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition.

In a June 4, 2014 Request for Evidence (RFE), the director asked the petitioner to submit evidence of having met the beneficiary in person during the required time period or evidence to request a waiver of the meeting requirement. The director also requested that the petitioner submit statements from him and the beneficiary of their intention to marry one another within 90 days of the beneficiary’s admission into the United States in K-1 status. In response the petitioner provided a letter stating his intention of marrying the beneficiary within 90 days of her admission and a statement requesting a hardship waiver of the two-year meeting requirement, with a supporting letter from his treating physician.

The director denied the petition, finding that the petitioner had not demonstrated that his medical condition prevented him from meeting the beneficiary and that he did not submit documentation of the beneficiary’s intent to marry him within 90 days of her admission. The director noted that although the petitioner submitted a doctor’s letter describing the various health issues he faced and stating that it was not recommended that the petitioner leave, the petitioner did not submit medical records to support this letter. The director deemed the evidence insufficient to establish that meeting with the beneficiary would result in extreme hardship to the petitioner.

On appeal, the petitioner asserts that travelling would have caused him hardship because he was receiving medical treatment for the serious injuries he sustained in [REDACTED] 2009 as a victim of a shooting incident. The petitioner submits another letter from his doctor, dated November 24, 2014, confirming that since February 9, 2011, the petitioner has been receiving treatment for post-traumatic stress disorder and that the applicant was advised that he should not leave his area of residency for the duration of his treatment, which continues. The petitioner also provides medical records on appeal: his discharge summary notes, dated June 8, 2010, describing multiple gunshot wounds received in [REDACTED] 2009; a physician certification of necessity for inpatient psychiatric treatment, admitting the petitioner for treatment, dated February 9, 2011; a neurological consultation

report, dated February 10, 2011, indicating that the petitioner suffers from severe depression and panic attacks; and a November 26, 2014, letter from a clinical psychologist, stating that he treated the petitioner between February 24, 2011 and September 17, 2013.

Analysis

The issue here is whether the petitioner has submitted sufficient evidence to establish that compliance with the meeting requirement would have caused him extreme hardship. The petitioner asserts that travelling out of the country would have caused him extreme hardship due to his medical condition after having been shot during a violent crime. The record includes evidence of the petitioner's post-traumatic stress disorder treatment, his severe injuries, and his psychotherapeutic treatment from February 2011 to September 17, 2013. The petitioner also has shown, with the letter from his treating physician, that he was advised to refrain from travelling. On appeal, the petitioner has established that compliance with the meeting requirement would have caused him extreme hardship, considering the continuous medical and mental-health treatment he required during the two-year period preceding his filing Form I-129F. The relevant evidence also demonstrates that the petitioner merits a favorable exercise of discretion to waive the meeting requirement due to the extreme hardship compliance would have caused him.

Conclusion

Now that the petitioner has met all of the Form I-129F evidentiary requirements, the petition will be approved and the appeal will be sustained. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

ORDER: The appeal is sustained. The petition is approved.