U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF T-I-

DATE: SEPT. 2, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as the fiancée of a U.S. citizen. *See* Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition because the Petitioner did not submit any required initial evidence. *See decision of Director*, December 8, 2014. Specifically, the Petitioner did not establish that he and the Beneficiary had met in person within two (2) years before the date of filing the petition and had a *bona fide* intent to marry within 90 days of the Beneficiary's entry into the United States. *Id.* Further, the record did not contain: Form G-325A Biographical Information Sheets; passport-style photographs for Petitioner and the Beneficiary; evidence of the Petitioner's U.S. citizenship; or evidence of the termination of the Petitioner's prior marriage. *Id.*

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence in the record, including new evidence submitted upon appeal.

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 [her] discretion may waive the requirement that the parties have previously met in person. . . .

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 filing a Form I-129F, including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

The Petitioner filed the Form I-129F on June 20, 2014, without any supporting evidence. For this reason, on October 2, 2014, the Director issued a Notice of Intent to Deny (NOID). In response to the NOID, the Petitioner submitted the NOID coversheet with no additional documentation.

On December 8, 2014, the Director denied the petition, finding that the Petitioner had not submitted any of the required initial evidence. On appeal, the Petitioner states that he was confused by the NOID and submits additional evidence which was noted as missing in the NOID. The Petitioner submits:

- A statement of facts regarding meeting his fiancée;
- A letter from the Beneficiary;
- A copy of some pages of his U.S. passport and naturalization certificate;
- Form G-325A Biographical Information Sheets for himself and the Beneficiary;
- A copy of his divorce decree from
- Photographs of himself and the Beneficiary;
- His 2013 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement.

While the record contains a copy of the Petitioner's divorce record from the translation of the divorce record did not comply with the terms of 8 C.F.R. § 103.2(b)(3):

> *Translations.* Any document containing foreign language submitted to [USCIS] shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

The record contains a statement from the Beneficiary indicating she intends to marry the Petitioner within 90 days of entry into the United States. However, it does not contain a statement from the Petitioner attesting to his intent to marry within 90 days of the Beneficiary's admission.

Moreover, the evidence in the record contains inconsistent information on the Petitioner and Beneficiary's relationship. On the Form I-129F, the Petitioner stated in response to Part 2, Question 34.a, that his friend introduced him to the Beneficiary through the internet in 2011 by providing him with her contact information. He further stated that they had met in the United States in the summer of 2014 and decided to get married. This is inconsistent with the Petitioner's January 3, 2015 statement of facts regarding meeting my fiancée, in which he states that he met the Beneficiary in July 2014 while

she visited the United States on a business trip.[1] He states that he was a tour bus driver with for a trip the Beneficiary's employer arranged.[2] He states that during the trip he and the Beneficiary talked and then went on a few dates before the Beneficiary departed the United States. He states that after the Beneficiary returned to Japan they kept in touch and he asked her to marry him. He states that she then returned to the United States in September 2014 during which time they made marriage plans and initiated the process of obtaining her an fiancée visa. While the Petitioner states that he did not initiate the fiancée visa process until the Beneficiary's return to the United States in September 2014, he filed the Form I-129F on June 20, 2014, prior to him meeting the beneficiary in July 2014. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Further, the Petitioner has not submitted probative evidence that he and the Beneficiary have met in person between June 20, 2012 and June 20, 2014, which is the two-year period immediately preceding the filing of the petition, nor does he assert that he merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The evidence in the record is insufficient to establish that the Beneficiary and the Petitioner have met in person. While the record contains an IRS Form W-2 reflecting the Petitioner's employment with during 2013, there is no evidence, such as his 2014 IRS Form W-2, that he was also employed during 2014, when he claims he met the Beneficiary. There is no evidence, such as a letter from his employer, that the Petitioner was responsible for the specific tour the Beneficiary attended. There is no documentation, such as passport pages with entry and exit stamps, ticket stubs or itineraries, that the Beneficiary was in the United States during the claimed time period. There is no evidence, such as ticket stubs or itineraries, that the Beneficiary attended the tour for which the Petitioner was responsible. There is no evidence, such as dated photographs together, that the Petitioner and Beneficiary actually met during her stay(s) in the United States.

Even if the evidence established that the Petitioner met the beneficiary in July 2014, according to the Petitioner their first in-person meeting did not occur until after the filing of the Form I-129F in June 2014. Any evidence of the couple's meeting in July 2014 would be relevant to a new fiancé(e) petition that the Petitioner may file for the Beneficiary in the future, but it has no relevance to whether the couple met during the period applicable to this petition.

The Petitioner makes no claim that he should be exempted from the requirement for a meeting with the Beneficiary pursuant to 8 C.F.R. § 214.2(k)(2). Further, the couple's claimed July 2014 meeting after filing the fiancée petition establishes that the filing of the petition was premature.

The appeal will be dismissed for the above stated reasons. In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section

[1] The Petitioner does not indicate that he had a relationship with the Beneficiary prior to this meeting in July 2014 and implies that this was their first contact.

[2] The statement that the Beneficiary's employer arranged her coach trip is inconsistent with her Form G-325A on which she indicates that she has been a self-employed designer/artist from June 2011 until December 21, 2014, the date on which she signed the Form G-325A.

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 not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

ORDER: The appeal is dismissed.

Cite as *Matter of T-I-*, ID# 13837 (AAO Sept. 2, 2015)