U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-F-

DATE: SEPT. 22, 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 a fiancée of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 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 required initial evidence. *See decision of Director,* December 4, 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. *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 properly 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 April 24, 2014, without sufficient supporting evidence. For this reason, on September 18, 2014, the Director issued a request for evidence (RFE) which, among other things, requested evidence that the Beneficiary and Petitioner had met in person within two (2) years before the date of filing the petition. In response to the RFE, the Petitioner submitted evidence of past travel to Ghana, and indicated that it would be a financial hardship for him to travel again to see the Beneficiary in Ghana.

On December 4, 2014, the Director denied the petition finding that the Petitioner had not submitted evidence to establish that the he and the Beneficiary had met between April 24, 2012, and April 24, 2014, as required under section 241(d) of the Act, or that he merited a waiver of the meeting requirement. On appeal, the Petitioner explains that he thought that his meeting with the Beneficiary in 2012 would met the requirement that he and the Beneficiary meet within two (2) years of filing the Form I-129F. Alternatively he claims that he meets the extreme hardship exemption due to lack of vacation leave in his current positions, and his university studies at . The Petitioner submits evidence that he attended classes at in 2013 and classes at in 2014, as well as a bill for tuition and fees for the Spring 2015 semester.

The Petitioner does not assert, nor has he submitted probative evidence demonstrating that he and the Beneficiary have met in person between April 24, 2012 and April 24, 2014, which is the two-year period immediately preceding the filing of the petition. Furthermore, the record contains insufficient evidence indicating that the Petitioner 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 Petitioner admits that his last meeting with the Beneficiary occurred in January 2012, which falls outside the two-year period immediately preceding the filing of the petition. On appeal, the Petitioner states that he has been unable to meet with her within the two-year period immediately preceding the filing of the Form I-129F because he was attending university classes, which require his time and attention, and because he does not have sufficient vacation time. The record reflects that the Petitioner visited Ghana in 2005, 2010, 2011 and 2012.

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 K-1 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 Petitioner does not contend that he would be exempt based on the second scenario. The Petitioner's claim of extreme hardship due to lack of vacation time or university studies is based solely on financial constraints. Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, economic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS,* 794 F.2d 491, 498 (9th Cir. 1986). Moreover, as previously noted, the Petitioner and the Beneficiary have already met, pursuant to the Petitioner's trips to Ghana, in July 2010, 2011 and 2012. Thus, the Petitioner's claim that the couple's inability to meet within the required period was due to extreme hardship has diminished merit.

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 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 M-F-*, ID# 13838 (AAO Sept. 22, 2015)