U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-A-A-

DATE: FEB. 8, 2016

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 fiancé(e) 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 establish that she met the Beneficiary in person within two-year period immediately preceding the filing of the Form I-129F, Petition for Alien Fiancé(e), or demonstrate that she merits a favorable exercise of discretion to exempt her from such requirement. On appeal, the Petitioner submits additional evidence.

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. . . .

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 fiancé(e) petition with USCIS on May 30, 2014, without sufficient supporting evidence. For this reason, on November 28, 2014, the Director issued a request for additional evidence. In response, the Petitioner submitted additional documents, including statements from the Petitioner and the Beneficiary of their intent to marry within 90 days of the Beneficiary's admission into the United States, a copy of the Petitioner's U.S. Passport with evidence of the Petitioner's travel to Lebanon in 2011, and a copy of a bank document. The response does not include evidence that the Petitioner and the Beneficiary met in person within the two-year period preceding the filing of the petition. The Director found the evidence insufficient and denied the petition on March 5, 2015. The Director determined that the Petitioner had not submitted credible and probative evidence to establish that she and the Beneficiary met in person between May 30, 2012 and May 30, 2014, the two-year period immediately preceding the filing of the petition, as required under section 214(d) of the Act. The Director also determined that the Petitioner had not established that she merits a favorable exercise of discretion for a waiver of the two-year meeting requirement.

On appeal, the Petitioner submits a statement dated March 27, 2015, asserting that she was not able to meet the Beneficiary in person during the two-year requisite period because of financial hardship and the health condition of her father and brother. The Petitioner also submits a statement dated December 3, 2012, from Department of Oncology, stating that the Petitioner's father is a patient in their office and was undergoing chemotherapy, a statement dated January 6, 2014, from regarding her brother's medical history, and a copy of a real estate listing from the dated May 26, 2012.

The Petitioner has not submitted credible and probative evidence that she and the Beneficiary met in person between May 30, 2012 and May 30, 2014, which is the two-year period immediately preceding the filing of the petition, or evidence that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

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.

In her March 27, 2015, statement, the Petitioner indicates that she and the Beneficiary met in 2011 in Lebanon and were engaged. The Petitioner claims that they postponed filing the K-1 visa petition until she was financially able to do so. The Petitioner states that she bought a home in 2012 and thereafter was laid off from her job. As a result, she was not financially able to travel to Lebanon to visit the Beneficiary again. The Petitioner also claims that she is the personal care giver to her disabled brother and that she took on more responsibility caring for her sick father, and as such, she was unable to travel to Lebanon. The Petitioner cites financial hardship and family obligations as the reasons she was not able to meet the Beneficiary during the requisite period.

The evidence provided by the Petitioner does not meet the requirement specified under 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2) for an exemption from the meeting requirement. The statement from and the letter from Department of Oncology regarding the Petitioner's father do not establish that compliance with the two-year meeting requirement would have resulted in extreme hardship to the Petitioner. The statement from shows that the Petitioner's brother has had health issues since birth. The statement from states that the Petitioner's father is their patient and that he was undergoing chemotherapy but does not indicate that the Petitioner is his sole caregiver. The statements do not fully document the level and the extent of the Petitioner's role and responsibilities in caring for her family members. These statements do not establish that traveling to Lebanon, even for a short period, between May 30, 2012 and May 30, 2014, would have resulted in extreme hardship to the Petitioner. We note that the Petitioner was able to travel to Lebanon in 2011 despite her responsibilities caring for her disabled brother.

The Petitioner also claims that she bought a home in 2012 and was laid off from her job, but there is insufficient documentation of her financial situation to establish that she was unable to afford travel to Lebanon between May 2012 and May 2014. We note that the financial commitments required for travel to a foreign country are a common requirement to those filing the Form I-129F petition, and the record does not establish that traveling to meet the Beneficiary would constitute extreme hardship to the Petitioner.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of D-A-A-*, ID# 15275 (AAO Feb. 8, 2016)