U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-K-

DATE: JULY 20, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) (and that person's children) to the United States in K nonimmigrant classification for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) 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 90 days of the beneficiary's admission as a K nonimmigrant.

The Director, California Service Center, denied the fiancé(e) petition, concluding that the Petitioner: (1) did not submit a Form G-325A, Biographic Information Sheet, for himself; and (2) did not establish that he and the Beneficiary personally met within the two-year period immediately preceding the filing of the fiancé(e) petition or that the Petitioner merits a discretionary waiver of the personal meeting requirement.

The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and states that he was unable to travel to Sierra Leone during the requisite period because he was initially still married, it was unaffordable, and there was then an Ebola epidemic.

Upon *de novo* review, we will sustain the appeal.

I. APPLICABLE LAW

Subject to subsections (d) and (r) of section 214 of the Act, 8 U.S.C. § 1184(d) and (r), nonimmigrant K classification may be accorded to an alien who "is the fiancee or fiance 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 . . . ." *See* section 101(a)(15)(K)(i) of the Act.

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if the petitioner establishes that the parties have previously met in person within two years before the date of filing the fiancé(e) 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 90 days after the beneficiary's

arrival. U.S. Citizenship and Immigration Services (USCIS) maintains the discretion to waive the requirement of an in-person meeting between the two parties if compliance would either result in extreme hardship to the petitioner, or violate strict and long-established customs of the beneficiary's foreign culture or social practice. *See* section 214(d)(1) of the Act; 8 C.F.R. § 214.2(k)(2). When determining whether extreme hardship prevented a petitioner from meeting a beneficiary, we generally look at whether, during the two-year period, there existed any circumstances that were (1) not within the power of the petitioner to control or change; and (2) likely to last for a considerable duration or the duration could not have been determined with any degree of certainty.

II. ANALYSIS

On appeal, the Petitioner submits a Form G-325, Biographic Information Sheet, for himself, so we withdraw this ground of denial. The Petitioner filed the fiancé(e) petition with USCIS on August 31, 2015, and was therefore required to have met the Beneficiary in person at some point from August 31, 2013, to August 31, 2015. The Petitioner states that he was married to his first wife until 2013, and that traveling to Sierra Leone before August 2014 would have caused hardship because it was then unaffordable for him both in terms of time and money, as he was completing professional exams and then obtained his first professional job in June 2014. He asserts that in July 2014 Sierra Leone was hit with an Ebola epidemic, which was followed by travel advisories. He further states that as an auditor for a healthcare company making hospital visits he would have risked his job had he traveled to Sierra Leone or interacted with someone from that region. He further states that he was unable to meet the Beneficiary in a third country because of travel restrictions. With the appeal, the Petitioner submits a news account of the Ebola outbreak.

The July 31, 2014, news account submitted by the Petitioner reports that the Centers for Disease Control and Prevention advised U.S. residents against non-essential travel to Sierra Leone and other affected countries over concerns about the outbreak of the Ebola virus. We note that the U.S. Department of State issued a travel warning for Sierra Leone on August 14, 2014, and on October 21, 2014, the Department of Homeland Security announced travel restrictions at U.S. ports of entry for travelers from the three West African Ebola-affected countries. The Department of State removed the travel warning for Sierra Leone on November 4, 2015, and a travel alert for parts of West Africa was removed on December 4, 2015. On December 22, 2015 the United States removed enhanced screening and monitoring for travelers from Sierra Leone.

Although the period during which the Petitioner and Beneficiary were required to meet in person began prior to the Ebola outbreak, the subsequent travel restrictions and health warnings covered a significant segment of that period and continued until after the fiancé(e) petition was filed. The Petitioner was therefore unable to travel to Sierra Leone during much of the time he was to have met the Beneficiary or otherwise would have traveled at considerable health risk, and the situation also restricted the Beneficiary's ability to travel to a third country to meet the Petitioner.

The evidence establishes that it would have been extreme hardship to the Petitioner to have met the Beneficiary during the required two-year period. We therefore waive the required personal meeting

between the Petitioner and the Beneficiary as a matter of discretion pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

III. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of J-K-*, ID# 17656 (AAO July 20, 2016)