



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 11029882

Date: APR. 28, 2021

Appeal of a California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks the Beneficiary's admission to the United States under the fiancé(e) visa classification. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i) (the "K-1" visa classification). A U.S. citizen may petition to bring a fiancé(e) to the United States in K-1 status for marriage.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not submit evidence of the Beneficiary's intent to marry the Petitioner within 90 days of her entry. On appeal, the Petitioner submits additional evidence and contends that the petition should be approved.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence.¹ We review this matter *de novo*.² Upon *de novo* review, we will remand the petition for further action.

I. LAW

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. *Id.*; 8 C.F.R. § 214.2(k)(2).

Evidence of an intention to marry may include statements of intent to marry signed by both the petitioner and the beneficiary or any other evidence that establishes mutual intent. *See* Form I-129F, Instructions for Petition for Alien Fiancé(e), at 11 (reiterating the requirement that the petitioner must submit evidence of a *bona fide* intention to marry); *see also* 8 C.F.R. § 103.2(a)(1) (providing that "[e]very form, benefit request, or other document must be submitted . . . and executed in accordance

¹ Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

² *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

with the form instructions” and that a “form’s instructions are . . . incorporated into the regulations requiring its submission”).

II. ANALYSIS

The Petitioner filed the instant fiancé(e) petition in May 2019. The Director issued a request for evidence (RFE), requesting, among other things, evidence establishing the parties’ mutual intent to marry. The RFE required “evidence of the bona fide nature of your and the beneficiary’s intent to marry within 90 days of Her [sic] admission to the United States. Such evidence *may*³ consist of a signed statement from you and the beneficiary . . . and/or any other evidence that might shed light on the [sic] your intent to marry.” (Emphasis added.) In response, the Petitioner submitted photographs taken with the Beneficiary and evidence that he had traveled during the requisite two-year period. The Director denied the petition, stating that “there was no written documentation from the beneficiary that would establish her intention of marrying the petitioner within the 90 days of her arrival into the United States . . . [or] any other primary evidence . . . that would suggest the beneficiary had an intention of concluding a valid marriage . . . [or] any evidence to establish the beneficiary’s intent of marriage in response to the [RFE].”

The Petitioner submits four statements from the Beneficiary on appeal. One is best described as a love letter from the Beneficiary to the Petitioner, and in another letter the Beneficiary proposes marriage in vague terms (“I thus propose you to become my better half. I am sure that you would be perfect kin every way for me.”). In another, the Beneficiary states that she has “finally taken a decision as it is . . . would like to make you my life partner . . .” and in a fourth, the Beneficiary generally describes her anticipation of the couple’s marriage.

The Petitioner also provides his own statement on appeal in which he explains how the couple met, states his intent to marry her, and confirms that she accepted his marriage proposal. He writes that “[redacted] and I are planning to ge [sic] marry immediately we reunited in the United States. The wedding will take place in the first three months of our union in the United States. [redacted] and I will go to get married in court immediately she arrived in the United States.” He also provides other details regarding their plan to effectuate a marriage upon her arrival. The Petitioner also submits a letter from the Beneficiary’s cousin, who confirms the couple’s prior meeting and testifies to their intention to marry in the United States.

This new evidence appears sufficient to establish the intent of the parties to enter into a bona fide marriage within 90 days of the Beneficiary’s entry and therefore overcomes the single ground of the Director’s denial. As such, we will withdraw the decision and remand the matter so that the Director may determine whether the Petitioner has satisfied the remaining eligibility requirements.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

³ The Director used the term “may,” which has a different meaning than “shall” or “must.” If the Director required a statement directly from the Beneficiary to establish the intent to marry requirement, that requirement should have been made clear. Utilizing clearer language in the RFE would have placed the Petitioner on notice of the record’s deficiency and provided him with a more meaningful opportunity to respond.