



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

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

In Re: 11008541

Date: JUNE 2, 2021

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as a “K-1” nonimmigrant under the fiancé(e) visa classification at section 101(a)(15)(K)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i). A U.S. citizen may petition to bring a fiancé(e) to the United States in K classification for marriage.

The Director of the California Service Center denied the fiancé(e) petition, concluding that the petition is subject to a statutory bar because less than two years have passed since the Petitioner filed a fiancé(e) petition and he did not request or establish justification for a discretionary waiver of the bar. The Director also concluded that the Petitioner had not demonstrated that he and the Beneficiary have a *bona fide* intent to marry.

On appeal, the Petitioner asserts the Director erred, requests a waiver, and submits additional evidence.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. Upon de novo review, we will dismiss the appeal. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

I. LAW

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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. Further, section 214(d)(2)(A) of the Act precludes approval of a petition if a petitioner has: (1) previously filed a fiancé(e) petition for two or more foreign national fiancé(e)s before filing the instant fiancé(e) petition, or (2) less than two years have passed since the filing date

of a previously-approved fiancé(e) petition.¹ However, section 214(d)(2)(B) of the Act provides a discretionary waiver of these limitations “if justification exists.”²

II. ANALYSIS

Upon review of the record in its totality, we conclude that the Petitioner has not established eligibility pursuant to section 214(d) of the Act. Specifically, the record does not merit a discretionary waiver of the IMBRA limitations, and does not establish a bona fide intent to marry.

First, the Petitioner is subject to the IMBRA limitations because he had a previously approved fiancé(e) petition and less than two years had passed since the filing date of that petition.³ In March 2017, the Petitioner filed a prior petition for the Beneficiary which was approved in July 2017. However, the U.S. Embassy for the Department of State (DOS) in Algiers, Algeria declined to issue a nonimmigrant visa to the Beneficiary based on the approved petition, and instead, returned the petition to USCIS recommending revocation of the approval after concluding that the couple's relationship was solely entered into for the purpose of obtaining an immigration benefit. The Petitioner subsequently submitted the instant fiancé(e) petition in January 2019.

As noted above, we may, in our discretion, waive the IMBRA limitations if justification exists.⁴ To establish that justification exists for a waiver, the factors we consider include, but are not limited to:

- Whether unusual circumstances exist (e.g. death or incapacity of the prior beneficiary(ies));
- Whether a petitioner appears to have a history of domestic violence;
- Whether it appears a petitioner has a pattern of [(1)] filing multiple petitions for different beneficiaries at the same time, of [(2)] filing and withdrawing petitions, or [(3)] obtaining approvals of petitions every few years.⁵

To merit the waiver, and ultimately to establish eligibility, a petitioner must overcome any negative factors that call into question whether he had a bona fide intention to marry the beneficiary(ies).

The Director issued a request for evidence (RFE) providing the Petitioner with an opportunity to submit a request to waive the IMBRA limitations and to submit evidence to show that the petition merited a favorable exercise of discretion. In particular, the Director noted that the prior petition had

¹ Sections 214(d)(2) and (3) of the Act were added by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Pub. L. 109-162, 119 Stat. 2960 (2006). Title VII of VAWA 2005 is entitled “Protection of Battered and Trafficked Immigrants,” and contains Subtitle D, “International Marriage Broker Regulation.” Accordingly, these limitations are commonly known as IMBRA provisions, for the International Marriage Broker Regulation Act.

² U.S. Citizenship and Immigration Services (USCIS) memorandum describes when the IMBRA limitations apply, how one may request a waiver of the limitations, and the factors that USCIS will consider in determining whether a discretionary waiver is warranted. See Memorandum from Michael Aytes, Associate Director for Domestic Operations, USCIS, HQPRD 70/6.2.11, *International Marriage Broker Regulation Act Implementation Guidance 2* (July 21, 2006). <https://www.uscis.gov/sites/default/files/document/memos/imbra072106.pdf>.

³ See section 214(d)(2)(A) of the Act.

⁴ Section 214(d)(2)(B) of the Act.

⁵ Aytes Memorandum, *supra*, at 2.

been returned because DOS determined the Petitioner's relationship to the Beneficiary was not *bona fide* in light of: (1) the Petitioner's record of filing immigration visas for his wives and then divorcing them; (2) the revocation of one of those spousal petitions; (3) the Beneficiary's attempts to obtain a visa to visit her sister in the United States in 2016 during which she failed to mention her relationship with the Petitioner; (4) contradictory information the Beneficiary provided in prior U.S. visa interviews regarding how she and the Petitioner met; and, (5) submission of a few photographs of a very small engagement party that appear contrary to the cultural norms.

The Petitioner responded to the Director's RFE and denied that the IMBRA limitations applied to him because he had not filed for any other K-1 beneficiaries. Based on this mistaken understanding of the IMBRA bars, he asserted that he did not need to request a waiver. However, he submitted additional evidence to support his claim that he and the Beneficiary have a *bona fide* intent to marry. This evidence included additional photographs of them together, evidence of his trips to Algeria to visit the Beneficiary, and a brief explanation of their relationship. The Director determined that the evidence was insufficient to meet the waiver requirements because no waiver was requested and because the Petitioner did not adequately explain why such waiver would be appropriate considering the DOS findings regarding inconsistencies in the record relating to the couple's *bona fide* intent to marry.

On appeal, the Petitioner requests a waiver of the statutory bar and presents documentation in support of his request relating to his prior marriage-based petitions and the *bona fides* of his relationship with the Beneficiary.

The evidence submitted relating to prior visa petitions includes a statement regarding the current whereabouts and status of his four previous wives, additional copies of the divorce decrees, and a copy of the withdrawal request for the petition he submitted for his last wife. In his statement, the Petitioner asserts that, "In my lifetime, I have previously filed visas for a total of four wives over a 21-year period. The notion that there is a pattern of behavior indicating disingenuous marriages is utterly incorrect." He then explains that his first wife returned to Jordan after their divorce, his second wife is currently a "US tax-paying citizen," his third wife returned to Jordan following their divorce, and his last wife never entered the United States. He also notes that his first two wives have multiple children, but the record does not establish whether the children resulted from his marriages to them. In the copy of his withdrawal letter for the petition for his last wife, the Petitioner states that he and she decided to separate because of age and compatibility issues.

We conclude that the evidence and assertions relating to the Petitioner's previous marriage-based petitions are insufficient to overcome the concerns noted by the Director. For example, the Petitioner does not provide sufficient evidence or documentation to support his claims regarding the *bona fide* nature of his prior relationships. Significantly, none of his ex-wives or their children provided statements verifying the nature and history of their relationships with the Petitioner. The divorce decrees do not discuss the circumstances or evidence upon which the divorce decrees were based and do not establish that the marriages were entered in good faith. Although the Petitioner submitted a copy of his withdrawal request for the petition for his last wife, the brief explanation the Petitioner provides in the request lacks detail concerning the circumstances leading him and his ex-wife to decide they were incompatible. Moreover, the reasons provided for the divorces and withdrawal are also not adequately supported by other evidence in the record. The record does not contain favorable factors that outweigh the concerns to grant a waiver of the IMBRA filing limitation.

Next, the record does not establish the *bona fide* intent to marry. The Petitioner offers a further explanation regarding the development of their relationship and indicates he received cost estimates from three local businesses for the wedding reception. The Petitioner explains he has communicated with the Beneficiary since 2015 over the phone and upon request can obtain call records for the last two years. Similarly, he previously stated that “The[y] met through a mutual friend who knew both parties were looking to get married,” and “telephone calls turned into video calls after a month or two” and he has “taken many trips to Algeria to visit the beneficiary” including in “November 2016 [when] the couple were engaged and had a small family gathering to announce the engagement.”

On appeal, he elaborates:

Regarding “when” the decision to become married occurred: In our cultural context, individuals do not date per se, and the marriages follow a traditional cultural path where the partners are arranged by intimate family friends with knowledge of both parties. With this in mind, the idea/desire to get married has been implicit since the inception of our communication, and has only been further solidified with each visit.

This evidence and explanation are also insufficient to show that the Petitioner and the Beneficiary have a *bona fide* intent to marry. Other than the Petitioner’s own statements and the submitted photographs, he again has not offered corroborating evidence such as statements or affidavits from the Beneficiary or others with knowledge of their relationship to further demonstrate its nature and development. Regarding phone records, even if additional call records were provided, without evidence to show the content of prior communications we cannot meaningfully determine whether the calls or other communications support the Petitioner’s claims.

Finally, the Petitioner provided no evidence to explain the inconsistencies in the record cited by the Director. The Petitioner’s statements regarding when he and the Beneficiary decided to marry do not address why in a prior interview for a visitor visa she did not mention her relationship with him or why in other interviews she gave conflicting accounts regarding how they met. Likewise, the Petitioner made no effort to explain inconsistencies mentioned by the Director relating to the engagement party photos submitted or otherwise provide context about the event such as who was in attendance or how they announced their engagement. These inconsistencies are material because they relate to the Petitioner’s reasons for filing multiple petitions on behalf of the Beneficiary, the outcome of his last petition, and whether he and the Beneficiary’s intent to marry is *bona fide*.

The Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

III. CONCLUSION

Even when viewed in a light most beneficial to the Petitioner, the record does not sufficiently establish that a discretionary waiver of the relevant IMBRA limitation is warranted or otherwise overcome the

concerns cited by the Director that call into question the *bona fides* of his relationship with the Beneficiary, including those relating to findings by DOS regarding the validity of that relationship.

ORDER: The appeal is dismissed.