



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

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

In Re: 16876102

Date: JUN. 10, 2021

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks classification of the Beneficiary under section 101(a)(15)(K)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i).

The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), concluding that the record did not establish the parties' intent to enter into a bona fide marriage.

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 dismiss the appeal.

The Petitioner did not sign Part 4 of the Form I-290B, Notice of Appeal, as instructed by the form instructions and 8 C.F.R. § 103.2(a)(2).³ Instead, her preparer signed it pursuant to a Power of Attorney (POA) executed between the two individuals.⁴ However, pursuant to the aforementioned authorities, and as explained further by 2018 policy guidance (signature memo),⁵ a POA is not acceptable in this context.

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).

³ The form instructions direct the Petitioner to herself sign Part 4, even if she receives help from a preparer. See Instructions for Notice of Appeal or Motion, available at <https://www.uscis.gov/sites/default/files/document/forms/i-290binstr.pdf>. (last visited May 27, 2021). In relevant part, 8 C.F.R. § 103.2(a)(2) states the following:

An applicant or petitioner must sign his or her benefit request. However, a parent or legal guardian may sign for a person who is less than 14 years old. A legal guardian may sign for a mentally incompetent person. By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct. Unless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format.

⁴ There is no question of fact as to whether the preparer in fact signed these two fields. He signed it in his own name with the annotation that he was signing "for" the Petitioner, and the POA was attached to the Form I-290B.

⁵ USCIS Policy Memorandum PM-602-0134.1, *Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services* (signature memo) (Feb. 15, 2018), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-02-16-PM-602-0134.1-Signatures-on-Paper-Applications-Petitions-Requests-and-Other-Documents.pdf>. The signature memo became effective

That policy guidance stated, in relevant part, the following:

The 2016 interim PM addressed general questions relating to the signature requirement contained in 8 CFR § 103.2(a)(2). One issue addressed by the interim PM involved allowing the signing of documents pursuant to a Power of Attorney (POA) under general agency principles. This final PM removes those provisions. The practice of accepting POA signatures resulted in inconsistent treatment among USCIS officers and offices of petitions that were accompanied by a POA. In addition, the Department of Justice has indicated to USCIS that POAs create an additional evidentiary burden, making it more difficult to litigate or prosecute immigration fraud when the filing is signed and filed by a POA. Upon the effective date of this PM, USCIS will no longer accept documents signed under general agency principles pursuant to a POA. As provided in section V. D of this PM, if a POA is determined to be acceptable for a certain form, its form instructions will be revised to provide the requirements for a POA. As described below, the policy on POAs for individuals and the remaining signature policies for entities remain unchanged.

Immigration law is not the only context within which this logic is followed. For example, in 2015 a federal bankruptcy court stated the following:

When documents requiring the debtor's original signature are not signed by the debtor, the evidentiary basis for the information in those documents no longer exists. The principal's act of giving the attorney-in-fact the authority to file documents containing facts within the principal's personal knowledge on her behalf does not transfer the principal's knowledge of those facts to the attorney-in-fact. *See In re Harrison*, 158 B.R. 246, 248 (Bankr. M.D.Fla. 1993) ("It takes no elaborate discussion to point out the obvious that no one can grant authority to verify under oath the truthfulness of statements contained in the documents and to verify facts that they are true when the veracity of facts are unique and only within the ken of the declarant."). Thus, even if a power of attorney gives the attorney-in-fact the authority to file documents related to the debtor's bankruptcy proceeding on the debtor's behalf, the attorney-in-fact cannot present these documents to the Court in accordance with Rule 9011 unless there is a separate evidentiary basis for their accuracy.

In re Veluz, No. 14-20101, 2015 WL 161002, at *4 (Bankr. D.New Jersey Jan. 12, 2015). *See also In re Husain*, 533 B.R. 658 (Bankr. N.D.Ill. 2015) ("attorney violated American Bar Association Model Rule prohibiting an attorney from knowingly making a false statement of fact or law to tribunal by filing bankruptcy petitions and other bankruptcy documents which purported to bear his clients' contemporaneous wet-ink signatures, but which were in fact signed by attorney or someone in his office on clients' behalf, even assuming that attorney acted with clients' consent").

March 17, 2018, and it rescinded previous USCIS policy that had allowed for the signing of documents pursuant to Powers of Attorney (POA).

Here, the Petitioner filed the Form I-290B in October 2020, more than two years after the signature memo became effective. The Petitioner's reliance on a POA allowing the preparer to sign his name on the Petitioner's behalf therefore does not accord with USCIS policy.⁶

Absent a Form I-290B personally signed by the Petitioner, we cannot conclude that the appeal was properly filed, and the appeal must therefore be dismissed.⁷

ORDER: The appeal is dismissed.

⁶ USCIS records show that the preparer is the Petitioner's ex-husband, although the preparer does not represent himself as such in his October 6, 2020 letter. The preparer's letter explains that the Petitioner is in Iraq and that her travel has necessitated him serving as her agent (pursuant to the POA) in this matter. However, traveling overseas does not constitute a valid reason for the Petitioner's failure to sign her Form I-290B. There is no evidence to establish that the Petitioner is mentally incompetent, which is required for a third party or legal guardian to sign the Form I-290B on her behalf.

⁷ The signature memo states that "if USCIS accepts a request for adjudication and later determines that it has a deficient signature, USCIS will deny the request."