



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 8375413

Date: MAR. 29, 2021

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks the admission of the Beneficiary, a citizen of the Philippines, 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). The Director of the California Service Center (Director) denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), and the matter is now before us on appeal. On appeal, the Petitioner submits a statement and additional evidence. The Administrative Appeals Office reviews the questions in this matter de novo. *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will remand the matter to the Director for further consideration.

I. LAW

The burden of proof is on the petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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 individual who “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 101(a)(15)(K)(i) of the Act.

To demonstrate eligibility for this petition, a petitioner must submit a number of documents, including his or her passport-style color photograph. Specifically, the Form I-129F, Instructions for Petition for Alien Fiancé(e), require a petitioner to:

[S]ubmit one color passport-style photograph of yourself and one color passport-style photograph of the beneficiary taken within 30 days of filing this petition. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

Form I-129F, Instructions for Petition for Alien Fiancé(e), at 10; 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 with the form instructions” and that a “form’s instructions are . . . incorporated into the regulations requiring its submission”).

II. ANALYSIS

The Petitioner filed the fiancé(e) petition on behalf of the Beneficiary in January 2019. The Director issued a notice of intent to deny (NOID), informing the Petitioner that the record was not sufficient to establish eligibility because the Petitioner did not submit passport style photos and did not answer a question on the fiancé(e) petition pertaining to his use of an International Marriage Broker (IMB) and requesting the Petitioner to provide evidence of the same. The Petitioner responded to the NOID but did not provide the photos or answer the IMB question. As a result, the Director denied the fiancé(e) petition, concluding that the Petitioner did not submit sufficient documentation to demonstrate eligibility for the petition.

On appeal, the Petitioner submits passport style photographs of himself and the Beneficiary and answers in the negative the IMB question as posed on the fiancé(e) petition. He also submits statements from himself and the Beneficiary regarding their bona fide intent to marry within a period of 90 days after the Beneficiary's arrival in the United States. Because this evidence is directly relevant to the Director's ground for denial of the fiancé(e) petition, we will remand the matter for further consideration of whether the Petitioner has established that he and the Beneficiary 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 and has otherwise established eligibility under section 214(d) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.