



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 8802269

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 Cambodia, 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 brief 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). Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), provides that the petitioner must establish, inter alia, that the parties 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.

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

II. ANALYSIS

The Director denied the fiancé(e) petition, concluding that the Petitioner did not submit sufficient documentation establishing the parties’ bona fide intention to marry. The Director noted several inconsistencies in the record, including discrepancies in the Beneficiary’s telephone number on call logs submitted by the Petitioner, and discrepancies between the Beneficiary’s last name on money

transfers sent to her by the Petitioner. The Director also noted that the Petitioner did not submit evidence of a dowry given to the Beneficiary, as is the custom and cultural norm in Cambodia, and that in the photographs submitted with the petition, neither party was wearing an engagement ring. Lastly, the Director noted that during an initial fiancé(e) interview in January 2017, the Beneficiary displayed a lack of knowledge regarding the Petitioner and his life in the United States. The Director determined that due to the foregoing, the Petitioner did not establish the parties' bona fide intention to marry.

On appeal, the Petitioner presents additional evidence and maintains that he has demonstrated eligibility to classify the Beneficiary as a K-1 nonimmigrant. The additional evidence includes an updated personal statement in which the Petitioner explains that two different phone numbers appear on the call logs in the record because the Beneficiary's telephone broke during their relationship and she obtained a new telephone number when she purchased a new telephone. The Petitioner also explains that the discrepancy between the last names on the money transfer receipts was a typographical error and submits a signed certificate from the chief of the Beneficiary's commune in Cambodia that acknowledges the different spellings of the Beneficiary's last name and verifies her identity. The Petitioner further explains that the Beneficiary's perceived lack of knowledge about his life at a previous interview was a result of nervousness. Lastly, the Petitioner submits photographic evidence of his engagement, the dowry given to the Beneficiary, and their engagement rings. He explains that per Cambodian custom, the parties do not wear the engagement rings because the Beneficiary's mother is safeguarding them until the wedding day. Because this additional 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.