



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 15236893

Date: OCT. 05, 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 Form I-129F, Petition for Alien Fiancé(e), concluding that the Petitioner did not provide sufficient evidence to demonstrate that he and the Beneficiary were able to conclude a valid marriage in the United States. The Director also found the Petitioner did not establish the Beneficiary's bona fide intent to marry her within 90 days of his admission into the United States. On appeal, the Petitioner provides an explanation of his current situation and submits additional evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence.¹ We review the questions in this matter de novo.² Upon de novo review, we will dismiss the appeal.

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).

The regulation at 8 C.F.R. § 103.2(b)(1) states that an applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition.

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).

II. BACKGROUND

This is the third fiancé(e) petition the Petitioner has filed on behalf of the Beneficiary. The Petitioner filed the first petition in December 2014. USCIS approved it in March 2015 and forwarded the approval to the U.S. Embassy in Manila, Philippines. The Department of State (DOS) found that the parties had not met their burden to demonstrate a bona fide relationship, refused the Petitioner's fiancé(e) petition, and returned the petition to USCIS. USCIS terminated it in October 2016 after the validity period of the approved petition expired.

The Petitioner filed a second fiancé(e) petition on behalf of the Beneficiary in September 2016 and it was approved in July 2017. DOS once again refused to issue the visa, finding that the parties sought to procure a visa or entry into the United States by fraud or the willful misrepresentation of material fact. According to the record, DOS asked the Petitioner to submit additional documents, including an amended birth certificate for the Beneficiary's child, within one year of the request. Also, the October 2017 DOS letter indicated that the Petitioner may have to submit Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601). In January 2019, DOS returned the second fiancé(e) petition to USCIS, and USCIS terminated the petition when the approved validity period expired.

The Petitioner filed the current petition in August 2019. The Director determined that the Petitioner did not satisfy the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant and issued a request for additional evidence (RFE) in May 2020. Specifically, the RFE requested, in part, evidence of (1) the Petitioner's and Beneficiary's legal ability to conclude a marriage; and (2) the parties' bona fide intent to marry.³ In response, the Petitioner stated the parties would marry in California and submitted additional documents, including a certificate from the Philippine Statistics Authority stating the Beneficiary does not appear in the National Indices of Marriage (Statistics Authority Certificate), the Beneficiary's driver's license, online purchase receipts, a cargo shipping receipt, utility receipts, greeting cards, notes, and photos.

The Director denied the petition by concluding that the submitted evidence did not establish the parties could legally marry at the time of filing or have a bona fide intent to marry. On appeal, the Petitioner emphasizes the prior approvals and states that he filed the Form I-601 and amended the Beneficiary's birth certificate as requested by DOS. The Petitioner, who is currently in the Philippines, asserts he cannot provide proof of wedding arrangements because he has to be in the United States to make those

³ The fiancé(e) petition indicated the Beneficiary is the great niece of the Petitioner. Since the Petitioner and Beneficiary are related, the Director's RFE requested evidence of the marriage requirements for the state in which the parties plan to wed and that the parties can comply with the state's marriage requirements.

In regards to the parties' bona fide intent to marry, the RFE stated that evidence could include details regarding the circumstances under which the Petitioner and Beneficiary met to establish the relationship, details on how the parties made the decision to become engaged; evidence of ongoing communication; correspondence between the parties discussing the future and/or marriage; evidence of wedding preparations; evidence of financial support; evidence of an engagement ceremony; evidence the Petitioner's and/or the Beneficiary's family and friends are aware of the relationship; and any other evidence to demonstrate the parties' intent to marry. The RFE also requested affidavits by two persons "who were living at the time the event(s) occurred, and who have personal knowledge of the event(s) [the Petitioner is] trying to establish."

arrangements. Also, the Petitioner states he is unsure USCIS will accept sworn affidavits from the Philippines. The Petitioner requests another chance to provide evidence as he will return to the United States soon. With his appeal, the Petitioner provided USCIS and DOS correspondence regarding his first two fiancé(e) petitions, a certification from the Philippine Bureau of Immigration stating the Petitioner does not have any derogatory information (Immigration Certificate), copies of the Petitioner's passport, and copies of the Petitioner's remittances to the Beneficiary.

III. ANALYSIS

We acknowledge at the outset the Petitioner's attempt to comply with the DOS requests for an amended birth certificate and the filing of a Form I-601. However, our decision on this appeal will be based on the instant petition and its supporting documents. We will not attempt to ascertain whether or not the Petitioner complied with DOS requests on prior petitions. Nor will we adjudicate the Form I-601 as part of this decision.

For the reasons discussed below, we conclude that the Petitioner has not satisfied the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. In particular, we find that two separate factors independently bar approval of this petition: (1) the Petitioner did not demonstrate the parties were legally able to marry at the time of filing; and (2) the Petitioner's failure to establish the couple's bona fide intention to marry.⁴

A. Legal Ability to Conclude a Valid Marriage

The Petitioner must establish that he was legally able to marry the Beneficiary at the time of filing the petition. As established, the Beneficiary is the great niece of the Petitioner. Because of the parties' familial relations, the Petitioner must establish that they can legally marry in California, the state where they intend to marry. In the RFE, the Director asked the Petitioner to provide evidence of (1) the marriage requirements in the state the parties plan to wed and (2) the parties' compliance with the state's marriage requirements. However, the Petitioner has not addressed either of the Director's requests. As such, the Petitioner has not demonstrated the parties are legally able to conclude a valid marriage at the time of filing pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. §§ 214.2(k)(2), 103.2(b)(1). We must dismiss the appeal for this reason alone.

B. Bona Fide Intent to Marry

In order for the fiancé(e) petition to be approved, a petitioner must provide evidence that the petitioner and beneficiary have a bona fide, or genuine, intent to marry. The intended marriage cannot be for the sole purpose of obtaining an immigration benefit.

The initial submission contained statements from the Petitioner and Beneficiary regarding their intent to marry each other within 90 days of arriving in the United States. While these statements may signal the parties' intent to marry, here the statements alone are not sufficient to demonstrate that their intentions are in fact bona fide.

⁴ The Petitioner submitted multiple documents to support the fiancé(e) petition. While we may not discuss every document submitted, we have reviewed and considered each one.

For example, the evidence also does not establish a consistent, detailed record throughout the entirety of the relationship. According to the fiancé(e) petition, the Petitioner and Beneficiary have been together since 2012 after meeting at a birthday party. However, the current petition does not provide any correspondence between the parties beyond several recent greeting cards and notes spanning the brief period from 2019 to 2020. Nor does the record provide any significant details regarding their relationship. For example, the petition lacks specific details on their engagement and wedding preparations. Nor, for example, are there statements from any individuals with knowledge of the couple's relationship. In addition, the submitted remittances only establish the couple's relationship for a short period between March 2015 to July 2016.⁵ Without more probative evidence, the lack of details on the relationship casts doubt on the parties' bona fide relationship and their intent to marry.

The other evidence submitted by the Petitioner does not demonstrate the bona fides of the relationship or the parties' intent to marry, either. The submitted photos demonstrate the Petitioner and Beneficiary have met throughout the years, but they do not demonstrate the parties' intent to marry. Nor do the airline ticket receipts of the parties' travels establish their marriage intent. Also, the greeting cards alone do not establish the parties' bona fide relationship without more corroborative, probative evidence. The receipts and the Beneficiary's driver's license establish the Petitioner and the Beneficiary have the same mailing address, but they do not demonstrate the parties actually live at the same address or intend to marry. Lastly, the Statistics Authority Certificate and the Immigration Certificate do not provide any additional insight into the bona fides of the relationship, either.

In his statement, the Petitioner provides several reasons for this lack of evidence. For example, the Petitioner asserts there is no evidence of wedding preparations because he would have to be in the United States to make the preparations. Considering the length of the Petitioner's purported relationship and that the Petitioner has obtained prior approvals, it seems unlikely the parties would not have discussed any wedding plans between 2012 and the present. As for not submitting any affidavits, the Petitioner states he did not think USCIS would accept a sworn affidavit from the Philippines. However, the Petitioner did not attempt to provide any affidavits or statements from any individuals. Even if he did not want to use a sworn affidavit executed in the Philippines, the Petitioner does not explain why his "relative[s] and friends" in the United States could not mail him their affidavits or statements. As such, we find the Petitioner's arguments unpersuasive.

In sum, the Petitioner did not provide sufficient evidence to establish that the Petitioner and the Beneficiary have a bona fide intent to marry one another. As such, the Petitioner has not established the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

IV. CONCLUSION

The Petitioner has not established that the parties were legally able to conclude a valid marriage at the time of filing. Nor has the Petitioner established that the parties have a bona fide intent to marry one another within 90 days of the Beneficiary's admission into the United States. As such, the Petitioner

⁵ Several of the remittances were unreadable and the date could not be established. Because the dates were unreadable, they were not included in this decision.

has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

ORDER: The appeal is dismissed.