



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

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

In Re: 17252448

Date: SEP. 7, 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 Petitioner did not establish that the parties have a *bona fide* intent to marry. On appeal, the Petitioner submits additional evidence and contends that the Director erred in her review of the evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will withdraw the Director's decision and remand the matter for further action.

I. LEGAL FRAMEWORK

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.

II. ANALYSIS

The Petitioner filed the fiancée petition on behalf of the Beneficiary in February 2020. To establish the parties' *bona fide* intent to marry, the Petitioner initially submitted two personal statements (one from him and another from the Beneficiary) expressing their intent to marry upon the Beneficiary's entry to the United States. He also submitted photographs taken during his visit to Laos (the Beneficiary's home country). The Director issued a request for additional evidence (RFE) requesting, among other things, additional evidence regarding the parties' *bona fide* intent to marry. In response to the Director's RFE, the Petitioner submitted a personal statement, three pages of WhatsApp chat messages, and receipts of payments sent to the Beneficiary.

The Director denied the petition, concluding that the Petitioner provided insufficient evidence to establish the parties' *bona fide* intent to marry. The Director found the WhatsApp messages did not show meaningful communication between the parties or how the parties' relationship progressed. In addition, the Director discounted the value of the MoneyGram receipts because: (1) it was unclear who sent these payments; and (2) because they were copies rather than original receipts.

On appeal, the Petitioner provides evidence establishing that he sent the MoneyGrams and a personal statement explaining the significance of his prior submission and the parties' future plans to marry. He also provides a more recent WhatsApp message exchanged between the parties. As our review is limited to the evidence in the record at the time of the Director's adjudication, the Director is the more appropriate party to consider this new evidence and its impact on the Beneficiary's eligibility for a fiancée visa. Therefore, we will withdraw the Director's decision and remand this matter for consideration of the new evidence and the entry of a new decision. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.