



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

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

In Re: 21957417

Date: AUG. 22, 2022

Appeal of 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) (fiancé(e) petition), concluding that the Petitioner did not submit sufficient evidence to establish eligibility for a fiancé(e) visa.

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 dismiss the appeal.

## I. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if a 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 a beneficiary's arrival.

At issue is whether the Petitioner has established, by a preponderance of the evidence, that he is legally able and free to marry the Beneficiary.

## II. ANALYSIS

The Petitioner, a native of the Philippines, is a naturalized citizen of the United States. The Petitioner filed the instant fiancé(e) petition on behalf of the Beneficiary, a citizen of the Philippines, in November 2020. The Petitioner noted that he is single on the fiancée petition. However, the Director issued a request for additional evidence (RFE) explaining that the Petitioner's naturalization certificate

listed him as married, and as such, he was required to provide documentation to explain why his fiancée petition listed him as single, and also to show that his prior marriage(s) had been terminated.

The Petitioner responded to the RFE with a personal statement, and copies of documents from a trial court in the Philippines explaining that the Petitioner's annulment proceeding was ongoing. The Petitioner explained that the annulment proceedings began in 2018 and were taking longer than expected due to COVID-19 related delays and postponements. He requested more time to provide sufficient documentation to establish he was legally free, and able to marry the Beneficiary. In his December 3, 2021 statement, the Petitioner wrote that a final hearing had taken place the day prior, and that he was awaiting final documentation of his annulment in another month or two. We note that the Petitioner's statement did not explain why he listed himself as single on the fiancée petition, or why he omitted any mention of his spouse.

On January 13, 2022, the Director denied the petition explaining that the Petitioner had not proved eligibility at the time of filing because he did not provide sufficient documentation to establish his legal ability to marry the Beneficiary. Although the Director's decision did not mention the lack of the Petitioner's explanation for his omission, we note it here because it adversely affects the Petitioner's credibility.

On appeal, the Petitioner explains that COVID-19 related delays caused his annulment proceedings to take much longer than expected, and he requests more time to provide this documentation. He also notes that his fiancée and his son are living in the Philippines, and he is eager to reunite with his family. While we are sympathetic to the Petitioner's family circumstances, we are unable to accept his assertions as evidence in these proceedings, and the Petitioner has yet to provide objective evidence to establish legal ability to marry the Beneficiary at the time he filed this petition in November 2020, or an explanation as to why his listed himself as single on his fiancée petition.

As such, and for the reasons stated above, the petition remains denied.

**ORDER:** The appeal is dismissed.