U.S. Citizenship
and Immigration
Services

In Re: 20755115

Date: JUN. 01, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) to the United States in K nonimmigrant visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within two years before the date of filing the 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 90 days of admission.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner was legally able to marry, since it did not contain documentation of the termination of all of the Petitioner's previous marriages. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will remand the matter for the entry of a new decision.

I. LAW

A petitioner seeking to classify a beneficiary as their fiancé(e) must establish, among other things, that they are legally able to conclude a valid marriage in the United States within 90 days of the beneficiary's arrival. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

II. ANALYSIS

The record indicates that the Petitioner has been married three times: to [   ], [   ] and [   ] In order to demonstrate that he was legally free to marry the Beneficiary, the Petitioner was asked by the Director in a request for evidence (RFE) to submit evidence that all of these previous marriages were legally terminated.

Regarding his marriage to [   ] the Petitioner provided a valid Philadelphia divorce decree, which the Director found established the termination of the marriage on [   ] 2004.

Regarding his marriage to [ ], the Petitioner submitted an Alabama Marital Settlement Agreement dated [ ] 2008. However, this document indicated that "an action for divorce is pending in…Court," rather than stating that the divorce was final. The Director found that this did not suffice to demonstrate that the Petitioner's marriage to [ ] was terminated.

Regarding his marriage to [ ], the Petitioner provided a New York Judgment of Divorce. The first page included a stamp stating that it had been filed at the [ ] Clerk's Office on [ ] 2004, and a handwritten note reading "August 4 2005." The second and third pages appeared to be identical, except for the area stating on what date the divorce proceedings occurred at the courthouse. One copy was stamped [ ] 2004, with a handwritten note reading "August 4 2005." The second copy was stamped August 4, 2005. The fourth page of the document includes a stamp stating that it was filed on [ ] 2004. All of the pages of the document were not clearly legible.

The Director issued a second RFE, asking for a legible copy of this judgment of divorce from [ ] [ ] as well as an explanation of the date discrepancies on the document provided. In response, the Petitioner provided a legible copy of the Judgment of Divorce, stating that the case had been heard on [ ] 2004, and filed on [ ] 2004. He also provided a statement that "[t]he August 4 2005 discrepancy is an invalid date" and that "the later date…was changed to prolong the bitter divorce." The Director found that this statement was insufficient to resolve the date discrepancy.

On appeal, the Petitioner provides a statement which indicates that after the divorce with [ ] [ ] was filed in [ ] 2004, a modification was initiated, and this modification was withdrawn in August 2005. He also provides an Alabama Certificate of Divorce stating that his marriage to [ ] ended on [ ] 2008. These submissions are material to the Petitioner's claim. Therefore, we will remand the matter to the Director to consider this new evidence in the first instance and determine whether the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant have been met.

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