



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

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

In Re: 20709023

Date: JUN. 24, 2022

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as her fiancé. 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) (and that person's children) 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. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner and the Beneficiary had a *bona fide* intention to conclude a valid marriage within 90 days of the Beneficiary's admission to the United States. 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 dismiss the appeal.

## I. LAW

A petitioner seeking to classify a beneficiary as their fiancé must establish, among other things, that both parties have a *bona fide* intention to marry within 90 days of the fiancé's admission to the United States. Section 214(d) of the Act.

## II. ANALYSIS

In order to qualify for the fiancé visa, the Petitioner must demonstrate that she and the Beneficiary have a *bona fide* intention to marry within 90 days of the Beneficiary's entry into the United States. *Id.* The intended marriage cannot be for the sole purpose of obtaining an immigration benefit. In their denial, the Director observed discrepancies and omissions in the record that undermined the overall credibility of the petition and found that the evidence provided was not sufficient to establish a *bona fide* intention to marry.

### A. Length and History of Relationship with Beneficiary

Regarding the history of her relationship with the Beneficiary, the Petitioner states that she was introduced to him in 2016, communicated with him via Facebook and text messages, and became engaged to him upon visiting him in Laos in December 2018. To demonstrate a *bona fide* intention to marry, the Petitioner initially provided a brief statement, photographs of her and the Beneficiary, visa stamps indicating she had visited Laos, and a Laotian Certificate of Engagement.

In November 2019, the Director sent a Request for Evidence (RFE) requesting more documentation of the Petitioner and Beneficiary's intention to marry, such as correspondence between them, wedding plans, evidence of financial support, and information about the history of their relationship. In response, the Petitioner provided a letter from her nephew, [REDACTED] and screen captures of foreign language text message conversations between her and the Beneficiary.

As noted by the Director, any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit properly certified English language translations of the text messages, they were not considered to be credible evidence.

Furthermore, the earliest text messages in the record were timestamped December 7, 2018, a few weeks before the Petitioner became engaged to the Beneficiary. Apart from the Petitioner's statement, there was no documentation of any communication between her and the Beneficiary prior to this date, despite her claim that they had been communicating since 2016. The unsigned letter from [REDACTED] simply stated his relationship with the Petitioner, that he is confident that the Petitioner will marry the Beneficiary, and that he is involved in planning the wedding. The Director found that in combination with other evidentiary issues addressed below, this documentation was insufficient to support the Petitioner's claim that she and the Beneficiary had a *bona fide* intention to marry.

On appeal, the Petitioner states that since the text conversations she submitted are in Hmong, it is not possible to have them translated into English. She also provides another copy of the text message conversations with her own handwritten English translations. Since the Petitioner did not certify that her translations were complete and accurate or that she is competent to translate from Hmong to English, we cannot determine whether the translated material is accurate and thus supports the Petitioner's claims. *See id.* We also decline to accept her unsupported statement that it is not possible to have Hmong translated to English. The Petitioner has the burden of proof in these proceedings and must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Because the Petitioner has not provided any documentation regarding the availability of Hmong to English translations, she has not met her burden of proof in this instance and the content of the text messages will not be considered as credible evidence of a *bona fide* intention to marry.

On appeal, the Petitioner also provides a statement from the Beneficiary, a second letter from [REDACTED] and a letter from [REDACTED] her uncle. The letters from [REDACTED] and [REDACTED] state that the latter introduced the Petitioner to the Beneficiary, that the Petitioner and Beneficiary intend to marry, and that [REDACTED] and [REDACTED] will help plan the wedding once the Beneficiary arrives in

the United States. The Beneficiary's statement says that he intends to marry the Petitioner within 90 days of his arrival in the United States. These statements, along with that of the Petitioner, contain insufficient specific details about the development of the Petitioner and Beneficiary's relationship to overcome the lack of documentation of that relationship prior to December 2018, a few weeks prior to the engagement.

Beyond the decision of the Director, we note that the English language translation of the engagement certificate includes a stamp stating, "Translated correct to the Original," but it does not include a certification from the translator that they are competent to translate from the foreign language to English. Therefore, we cannot determine whether the translated engagement certificate is accurate and thus supports the Petitioner's claims.<sup>1</sup> *Id.* Furthermore, even if the Petitioner submitted a properly certified English language translation, which she did not, the translation contains unexplained inconsistencies. The certificate gives the date of the engagement as December 29, 2018, but is dated March 27, 2019, at another point. Furthermore, the areas which are marked "Signature of the boyfriend" and "Signature of the girl friend" in the translation do not include any signatures in the original document, indicating that the Petitioner and Beneficiary did not sign the engagement contract.

#### B. Disclosure of Prior Marriages

In both the Form I-129F, Petition for Alien Fiancé(e), and the accompanying Form G-325A, Biographic Information (for Deferred Action), the Petitioner disclosed one prior marriage, to [REDACTED] which lasted from 1998 to 2006. However, upon examining the Petitioner's immigration records, the Director found that in 2002 she had filed a Form N-400, Application for Naturalization, which stated that she had been previously married to [REDACTED] from 1988 to 1995. In March 2020, the Director issued a Notice of Intent to Deny (NOID) requesting evidence that the marriage with [REDACTED] had been terminated and that the Petitioner was legally able to marry.<sup>2</sup> In response, the Petitioner provided a California divorce decree for the marriage to [REDACTED]. She did not provide any explanation of why she twice failed to disclose this marriage. In their denial, the Director found that this diminished the credibility of her petition.

On appeal, the Petitioner states, "In regard to my previous marriage, in 1995 we were new to the country and [knew] nothing about and how important marriage certificate and divorce." [*sic*] She further states that she did not complete the Form I-129F "thoroughly" due to not fully understanding the information being requested. The documentation of record indicates that in 1995, the Petitioner and her former husband obtained a divorce in California which included a custody agreement for their two children. It is not apparent from this documentation that the Petitioner lacked knowledge about her divorce in 1995, or how that claimed lack of knowledge pertains to her failure to disclose her marriage in multiple forms in 2019. The fact that the Petitioner disclosed her marriage to [REDACTED] and provided divorce documents in her initial evidence indicates that she was aware that she needed to demonstrate the termination of her prior marriages. The Petitioner has not provided a credible

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<sup>1</sup> This same concern is also applicable to the translations of the Beneficiary's Single Certificate, Residence Certificate, Birth Certificate, and ID Card. It is further noted that the original copies of the Single Certificate and Residence Certificate appear to be dated March 27, 2019, while the translations are dated July 6, 2018. No explanation is provided for these inconsistencies.

<sup>2</sup> In order to classify a beneficiary as their fiancé, a petitioner must establish that they are legally able to marry. Section 214(d)(1) of the Act.

explanation for her failure to disclose her marriage to [REDACTED] until the Director raised it in the NOID. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the petition. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

### C. Place of Residence

Form I-129F requires the petitioner to disclose the addresses where they have resided in the last five years, as well as the address where the beneficiary will reside upon entering the United States.<sup>3</sup> In the Form I-129F that she filed on May 3, 2019, the Petitioner stated that her mailing and physical address was 1114 [REDACTED] California, and that she had lived at this address since January 2018. She further stated that the Beneficiary's intended address upon arriving in the United States would be at the same location. She stated the same address on the Form G-325A provided with her petition. On both the Form I-129F and the Form G-325A, she also stated that her prior address from January 2012 to January 2018 was 3523 [REDACTED] California. She did not disclose any other physical or mailing address on these forms.

The documentation of record does not support the Petitioner's claim that she moved from 3523 [REDACTED] [REDACTED] Street to 1114 [REDACTED] Avenue in January 2018. The initial evidence included an April 24, 2019 criminal record clearance letter from the [REDACTED] California<sup>4</sup> Police Department, which stated that the Petitioner's address was 3523 [REDACTED] Street. Additionally, the Director found that in March 2018, the Petitioner filed Form N-565, Application for Replacement Naturalization/Citizenship Document, and gave her address as 3523 [REDACTED] Street at that time. The record also includes screen captures of text chats between the Petitioner and Beneficiary, and these include photographs of wire transfers from the Petitioner to the Beneficiary. Two wire transfers dated July and August 2019 give the Petitioner's address as 3523 [REDACTED] Street. The only documentation showing the Petitioner's claimed address of 1114 [REDACTED] Avenue consisted of photographs of two other wire transfers dated October and November 2019, and a bank account balance statement from April 2019.

Furthermore, the Petitioner's pay statements from February through April of 2019 stated that her address was 560 [REDACTED], California. Her 2018 federal income tax return and Internal Revenue Service Form W-2, Wage and Tax Statement, also state this address, which was not disclosed in the Form I-129F, the G-325A, or any other form provided as part of the petition. The Laotian engagement certificate provided with the initial evidence is dated December 29, 2018, and gives the Petitioner's address as PO Box [REDACTED] California. The Director found that this was insufficient to establish where the Beneficiary would live upon arriving in the United States.

In response to the Director's RFE, the Petitioner provided pay statements dating from December 2019 and January 2020, stating that her address was 2888 [REDACTED] California. She also provided a November 19, 2019, letter from her life insurance company acknowledging her change

<sup>3</sup> Instructions for Petition for Alien Fiancé(e) at 3, 5, <https://uscis.gov/sites/default/files/document/forms/i-129finstr.pdf>; see also 8 C.F.R. § 103.2(a)(1) (incorporating form instructions into the regulations requiring that form's submission).

<sup>4</sup> There is no indication in the record that the Petitioner has lived or worked in [REDACTED] California.

of address to 2888 [redacted] Avenue and a November 2019 bank statement giving the same address. The Petitioner did not provide any explanation regarding her undisclosed address at 560 [redacted] Street or the other inconsistencies regarding her place of residence. The Director found that the Petitioner had not provided sufficient evidence to establish where the Beneficiary would actually live upon arriving in the United States.

On appeal, the Petitioner provides a signed letter from [redacted] stating that he is the owner of 2888 [redacted], California, and that the Petitioner has been renting on his property since September 2019. She also provides her own written statement which states that she lived with her daughter “for a while,” until her daughter moved to [redacted] then rented an apartment with a friend until they left because it was infested with insects, concluding that her residence is now 2888 [redacted] Avenue, [redacted] California. She also states that she submitted the police clearance certificate because she “was told that USCIS needs background with the petition.” The statement does not specify the addresses where she lived with her daughter or friend.

This statement does not suffice to resolve the many inconsistencies regarding the Petitioner’s actual address. First, it provides no explanation for why the Petitioner did not disclose the 560 [redacted] Street address in her Form I-129F or Form G-325A, despite the fact that her paychecks and tax documents showed this address. There is also no explanation for why, among many other inconsistencies, the police clearance letter gave her address as 3523 [redacted] Street over a year after she claims she moved out of that address. Given the many unresolved ambiguities and inconsistencies in this petition, the unsupported letter from [redacted] also does not suffice to establish the Petitioner’s actual current address or the Beneficiary’s intended address upon entering the United States. Doubt cast on any aspect of the petitioner’s proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the petition. *Matter of Ho*, 19 I&N Dec. at 591-92.

### III. CONCLUSION

Where there are inconsistencies in the record, the Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Id.* While the Petitioner claims that she has been in a relationship with the Beneficiary since 2016, there is no documentation in the record of communication between them or other evidence of a relationship that predates their claimed December 2018 engagement by more than a few weeks. The Petitioner has also not provided sufficient evidence to resolve the inconsistencies in the record regarding her address or provided a satisfactory explanation for why she failed to disclose her marriage to [redacted] until the Director discovered it by reviewing her immigration records. These omissions and inconsistencies diminish the credibility of the instant petition. *Id.*

An applicant must support their assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. In this instance, the Petitioner has not provided sufficient credible evidence to establish that she and the Beneficiary have a *bona fide* intention to marry within 90 days of the Beneficiary entering the United States, as required by section 214(d)(1) of the Act. Therefore, she has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

**ORDER:** The appeal is dismissed.