



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

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

In Re: 22320708

Date: SEP. 23, 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 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 fiancée 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 Beneficiary is legally able to marry or that the parties have a *bona fide* intention to marry.

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

In order to classify a beneficiary as their fiancé(e), a petitioner must establish that both parties have met in person in the two years preceding the date of filing the petition, have a *bona fide* intention to marry within 90 days of the fiancée's admission to the United States, and are legally able and actually willing to conclude a valid marriage at that time. Section 214(d)(1) of the Act.

A petitioner must establish eligibility for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1).

II. ANALYSIS

A. Bona Fide Intention to Marry

In his initial filing, the Petitioner submitted copies of his naturalization certificate and driver's license; letters from himself and his parents; English-language translations of the Beneficiary's criminal background check, residence certificate, medical certificate, and birth record; a translation of the Laotian betrothal certificate; a bank statement; and a reference letter from his employer.

On Form I-129F, Petition for Alien Fiancé(e), Question 54, the Petitioner stated: "I met my fiancée on line (*sic*) for...approximately 6 months and met in person in December 2019." The Petitioner's letter stated that he and the Beneficiary "met online approximately 2 years and...got engaged on 12/17/2019." The letter from his parents stated that he lived with them and listed the household expenses he contributed to.

On December 25, 2021, the Director issued a request for evidence (RFE) requesting, among other things, evidence of both parties' *bona fide* intention to marry. Suggested evidence included evidence of ongoing communication, correspondence between the parties regarding their future and/or marriage, wedding plans, financial support, subsequent trips to visit the Beneficiary, and any other evidence that could demonstrate an intention to marry. The RFE also noted that the Petitioner stated at different points that the relationship between him and the Beneficiary was six months long and two years long, and requested detailed information about the time and circumstances of their meeting, as well as supporting evidence, in order to resolve this discrepancy.

In response to the RFE, the Petitioner provided English-language translations of the Beneficiary's marital status certificate and a letter from the Beneficiary; untranslated screen captures of the Beneficiary's chat history with a label stating they were from January 2021; photographs of the parties together; a pay statement; letters of support from the Petitioner, his sister, and his coworker; documentation of his trip to Laos in 2019; copies of the biographical pages of the parties' passports; and an employment verification document.

The letter from the Petitioner states that the parties began talking on Facebook in 2017 when the Beneficiary asked if the Petitioner wanted to add her as a friend, and that they met in person in December 2019 when he travelled to Laos to propose. The letter from the Petitioner's sister states that he met the Beneficiary on Facebook and they had been talking "for a couple of years" by the time he travelled to Laos. The Petitioner's sister further states that she didn't know that the purpose of the Petitioner's trip was to get engaged until she received the news that it had happened. The letter from the Petitioner's coworker states that the Petitioner met the Beneficiary on Facebook in 2017 and "was always talking to her and video chatting with her" before the trip to Laos. The English-language translation of the letter from the Beneficiary stated that she intends to marry the Petitioner within three months of entering the United States.

The Director denied the petition, finding that the record was insufficient to demonstrate a *bona fide* intention to marry. Among other issues, the Director noted that the letters of support were not accompanied by sufficient corroborating evidence of the parties' relationship history. The Director stated that the only evidence of any communication between the parties, the chat logs, was dated after

the RFE was issued. The Director further indicated that the evidence of the Petitioner's employment and financial status did not indicate he financially supported the Beneficiary, and the record did not contain any documentation of wedding plans or information about the parties' relationship history beyond the fact that they had communicated on Facebook for two years prior to the engagement.

Finally, the Director noted that the chat logs were not accompanied by an English-language translation, and the English-language translations of Laotian documents were not accompanied by the original foreign language documents. Any document containing a foreign language submitted to U.S. Citizenship and Immigration Services must be accompanied by a full English language translation, as well as a certification from the translator that the translation is complete and accurate and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). Without both the original foreign-language document and a certified English-language translation, it was not possible to meaningfully determine whether the translated material was accurate and supported the Petitioner's claims.

On appeal, the Petitioner submits more letters of support, his naturalization certificate, a criminal background check certificate for the Beneficiary, affidavits from the Beneficiary and her parents, a certificate of betrothal, money order receipts, documentation of his trip to Laos in 2019, screen captures of chat logs between him and the Beneficiary, documentation of the Petitioner's purchase of a house, documentation of the Petitioner's income, and photographs of the parties together.

First, the Director's RFE put the Petitioner on notice of the deficiencies in his evidence and gave him a reasonable opportunity to respond to those deficiencies before his petition was denied. As such, we will not accept evidence that has been offered for the first time on appeal. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988). Because all of the evidence submitted by the Petitioner on appeal was requested in the RFE, we will not accept any of the new evidence submitted on appeal. Furthermore, even if we were to accept the newly submitted evidence, which we do not, it would not demonstrate eligibility for the reasons set forth below.

In one of the letters submitted on appeal, the Petitioner's parents state that while he and the Beneficiary spoke online for about two years prior to their engagement, the Petitioner does not have any photographs or records of phone calls or video chats between them during that time because he was unsure he would be able to go to Laos to get engaged. It is not apparent from this explanation why the Petitioner's uncertainty about the engagement would prevent him from retaining any record of a claimed two-year relationship.

Furthermore, even if we were to accept this statement, the parties assert that they became engaged on December 17, 2019, and the Form I-129F was filed on March 17, 2020. Therefore, the Petitioner had three months after the engagement and prior to the filing of the petition to retain evidence of the relationship between himself and the Beneficiary, but none of the documentation provided is from this period. As noted above, the untranslated chat logs submitted in response to the RFE were dated January 2021. The chat logs submitted on appeal are also untranslated and date from October without a stated year. The money order receipt submitted on appeal is dated October 2021. The only evidence of the parties' relationship that precedes the filing of the petition, apart from letters of support, is the photographs of their in-person meeting in Laos in December 2019, three months prior to the filing of the petition.

It is further noted that several of the affidavits and letters of support, including two from the Beneficiary, are either foreign-language documents with no accompanying English-language translation or English-language translations unaccompanied by the original foreign-language documents. As stated above, this does not comply with the requirements of 8 C.F.R. § 103.2(b)(3) and makes it impossible to meaningfully determine the evidentiary value of this documentation. The evidence that does comply with the translation requirement simply states that the parties were engaged in Laos in December 2019 and intend to marry within 90 days of the Beneficiary's arrival in the United States. The appeal also includes letters from the Petitioner's coworker and his sister stating that they have discussed the Petitioner's wedding plans, but these letters contain no specific information about those plans and are unaccompanied by corroborating evidence. Finally, the documentation of the Petitioner's job, income, and purchase of a house post-dates the filing of the petition and does not establish the *bona fide* intent of either party. USCIS regulations affirmatively require the Petitioner to establish eligibility for the benefit they are seeking at the time the petition is filed. 8 C.F.R. § 103.2(b)(1).

In sum, because all of the evidence submitted by the Petitioner on appeal was requested in the RFE, we will not accept any of the new evidence submitted on appeal; and even if we did, given the lack of documentation of a relationship between the parties prior to December 2019 and the sparse information about the parties' relationship history and decision to marry, the totality of the evidence does not demonstrate that the Petitioner and Beneficiary have a *bona fide* intention to marry.

B. Beneficiary's Legal Ability to Marry

Because the issue of a *bona fide* intention to marry is dispositive in this case, we will not address the issue of whether the Beneficiary is legally eligible to marry and hereby reserve it. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 16 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where a petitioner or applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established by a preponderance of the evidence that he and the Beneficiary have a *bona fide* intention to marry within 90 days of the Beneficiary's admission to the United States. As such, the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

ORDER: The appeal is dismissed.