



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

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

In Re: 25592113

Date: APR. 11, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as their K-1 nonimmigrant fiancée. Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i). In order to do so, the Petitioner must establish that the couple met in person during the two-year period preceding the petition's filing, 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 parties were legally able to conclude a valid marriage in the United States because they were already legally married in Pakistan. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

In order to classify a beneficiary as their fiancée, a petitioner must establish, among other things, that they are legally able to conclude a valid marriage in the United States within 90 days of the fiancée's admission to the United States. Section 214(d)(1) of the Act.

In this instance, the parties cannot conclude a valid marriage in the United States because they are already married. The record indicates includes a copy of a Nikah Nama and a Marriage Registration Certificate issued by Pakistan's National Database & Registration Authority (NADRA) stating that the parties were married in Pakistan in 2020. The petition was filed in May 2021, after the parties were already married. Therefore, the Director denied the petition.

On appeal, the Petitioner states that he is seeking to classify the Beneficiary as a K-1 nonimmigrant fiancée because the parties are legally married in Pakistan and not in the United States. This claim is not supported by the record. When deciding the validity of a marriage, U.S. Citizenship and Immigration Services (USCIS) generally uses the "place-of-celebration" rule. Under this rule, a

marriage is valid for immigration purposes if it is valid under the laws of the place where the marriage was celebrated. *See, e.g., Matter of Hosseinian*, 19 I&N Dec. 453, 455 (BIA 1987); *see generally* 12 *USCIS Policy Manual* G.2.(A)(1). The U.S. Department of State's guide to Pakistani civil documents indicates that a Nikah Nama and a NADRA-issued marriage certificate are proof of a valid Muslim marriage in Pakistan.¹ The marriage of the Petitioner and the Beneficiary is valid under the laws of Pakistan, the place where it was celebrated. Therefore, it is a valid marriage for immigration purposes. *Id.* The record indicates that the parties cannot legally conclude a valid marriage in the United States within 90 days of the Beneficiary's admission because they are already married.

The Petitioner requests that if the petition cannot be approved, we change the requested classification from K-1 nonimmigrant fiancée to K-3 spouse of a U.S. citizen and adjudicate the petition accordingly.² However, a petitioner must demonstrate eligibility at the time of filing and cannot make material changes to a petition that has already been filed. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (BIA 1998). Furthermore, as noted by the Director, a K-3 nonimmigrant "must be the beneficiary of an immigrant visa petition filed by a U.S. citizen on Form I-130, Petition for Alien Relative . . .". 8 C.F.R. § 214.2(k)(7). The Petitioner does not claim, and USCIS records do not indicate, that a Form I-130 has been filed on behalf of the Beneficiary. She is therefore ineligible for the K-3 classification.

The Petitioner has not established by a preponderance of the evidence that he and the Beneficiary are legally able to conclude a valid marriage in the United States within 90 days of the Beneficiary's arrival. We note that the Petitioner is not precluded from filing a Form I-130 on behalf of the Beneficiary. Because the Petitioner has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant, the petition will remain denied.

ORDER: The appeal is dismissed.

¹ *See* U.S. Dep't of State, *Pakistan*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Pakistan.html> (expand the section for "Marriage, Divorce Certificates").

² Section 101(a)(14)(k)(ii) of the Act defines a K-3 nonimmigrant as a noncitizen who has concluded a valid marriage with a U.S. citizen who is the petitioner; is the beneficiary of an immigrant visa petition filed on their behalf by the petitioner; and who seeks to enter the United States to await the approval of that visa petition and the availability of an immigrant visa.