



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

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

In Re: 26583976

Date: AUG. 21, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as his 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). For this classification, 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 petition had been incorrectly filed for the Beneficiary's child.<sup>1</sup> 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

At this time, we are unable to address the merits of this case because the record is incomplete. The Director bears the responsibility of ensuring that the record is complete and contains all evidence that has been submitted by a petitioner or considered by U.S. Citizenship and Immigration Services in reaching its decision. See 8 C.F.R. § 103.2(b); cf. *Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976). In this instance, the file considered by the Director in reaching their decision was not the Beneficiary's, but that of her child. Accordingly, we will remand this matter for further consideration.

On remand, the Director should review the entire record of proceeding and make appropriate corrections relating to this case, including the review and correction of the records assigned to the Beneficiary and her child, and determine whether the statutory and regulatory requirements for

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<sup>1</sup> A K-1 beneficiary's child may apply for a visa to accompany or follow-to-join their K-1 parent without filing a separate Form I-129F, Petition for Alien Fiancé(e). *Instructions for Petition for Alien Fiancé(e)* at 1, <https://www.uscis.gov/default/files/document/forms/i-129finstr.pdf> (last visited Jul. 19, 2023); see also 8 C.F.R. § 103.2(a)(1) (incorporating form instructions into regulations requiring that form's submission).

classifying the Beneficiary as a K-1 nonimmigrant have been met. The Director may request any additional evidence considered pertinent to the new determination.

**ORDER:** The Director's decision is withdrawn.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