



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

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

In Re: 23418408

Date: JAN. 06, 2023

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 (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 qualified for a waiver from the International Marriage Broker Regulation Act of 2005 (IMBRA) regulations regarding multiple filings of fiancée petitions.¹

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 to the Director for the entry of a new decision.

To help ensure that fiancée visas are reserved for bona fide relationships, the Act does not allow the approval of a petition if less than two years have passed since the filing date of a previously-approved fiancée petition or if the petitioner has previously filed fiancée petitions for at least two different beneficiaries. Section 214(d)(2)(A) of the Act, 8 U.S.C. § 1184(d)(2)(A). U.S. Citizenship and Immigration Services (USCIS) may provide a discretionary waiver of this limitation if justification exists. *Id.*

The record indicates that the Petitioner has filed three fiancée petitions. The first was filed on behalf of [REDACTED] and approved in 2007. The second was filed on behalf of [REDACTED] on March 21, 2018, and subsequently approved by USCIS.² The third was filed on behalf of [REDACTED]

¹ This provision is part of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Pub. L. 109-162, 119 Stat. 2960 (2006).

² USCIS records indicate that the U.S. Department of State refused the Beneficiary's visa after a consular interview. The petition's validity has since expired. 8 C.F.R. § 214.2(k)(5).

[redacted] on March 5, 2020, less than two years after the filing date of the previously-approved petition.

When adjudicating this third petition, Director of the California Service Center found that the Petitioner was subject to the IMBRA filing limitations because he was filing less than two years after the filing date of a previously-approved fiancée petition,³ and issued a request for evidence requesting, among other things, documentation showing why the Petitioner should receive a waiver of these filing limitations in the exercise of discretion.

In response, the Petitioner did not provide any documentation regarding the filing limitations. The Director denied the petition, finding that the Petitioner did not merit a discretionary waiver of the IMBRA filing limitations because had not requested such a waiver or explained his reasons for filing multiple fiancée petitions.

On appeal, the Petitioner provides documentation regarding his reasons for filing a third fiancée petition less than two years after the filing date of the previously-approved one. This evidence is material to the Petitioner's eligibility and was not before the Director at the time the decision was issued. Therefore, we will remand the matter for the Director to consider this new evidence in the first instance and determine whether the Petitioner has met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant. The Director may request any additional evidence considered pertinent to the new determination. We express no opinion regarding the ultimate resolution of this case on remand.

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

³ Beyond the decision of the Director, we note that the Petitioner is also subject to the IMBRA filing limitations because prior to filing the current petition, he had filed fiancée visa petitions for two different beneficiaries. Section 214(d)(2)(A)(i) of the Act.