



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

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

In Re: 28233290

Date: SEP. 18, 2023

Appeal of California Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as her K-1 nonimmigrant fiancé. 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 record did not establish that the Petitioner is a U.S. citizen. 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.

Section 101(a)(15)(K)(i) of the Act permits a U.S. citizen to file a visa petition for a beneficiary fiancé so that the beneficiary can enter the United States for the sole purpose of marrying the petitioner within 90 days of admission.

The Director denied the Petitioner's Form I-129, Petition for Alien Fiancé(e), because she did not submit evidence demonstrating that she is a citizen of the United States. On appeal, the Petitioner submits her birth certificate and photographs of a passport. These submissions are material to the Petitioner's claim. Therefore, we will remand the matter to the Director to consider this new evidence in the first instance and determine whether the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant have been met.

The Director may request any other evidence considered pertinent to the new decision and any other issues. We express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The Director's decision is withdrawn.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