



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

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

In Re: 30251655

Date: APR. 11, 2024

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 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 record did not establish that the Petitioner is legally able to marry the Beneficiary because it did not include documentation showing that her prior marriage had been terminated. The matter is now before us on appeal pursuant to 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.

In order to classify a beneficiary as their fiancé, a petitioner must establish, among other things, that both parties are legally able to conclude a valid marriage in the United States within 90 days of the beneficiary's admission. Section 214(d)(1) of the Act. The Director denied the petition because the Beneficiary did not provide evidence demonstrating the termination of her marriage to her first husband. On appeal, the Petitioner provides a New York judgment of divorce. Because the evidence provided is material to the Petitioner's eligibility and was not before the Director at the time the decision was issued, we will remand the matter to the Director to consider this evidence in the first instance.

The Director may request any additional evidence considered relevant to the new determination 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ORDER: The Director's decision is withdrawn.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.