



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

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

In Re: 29568691

Date: FEB. 27, 2024

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 the Beneficiary's 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 had disclosed his criminal history information as required by the International Marriage Broker Regulation Act of 2005 (IMBRA)¹ and section 214(d)(1) of the Act. 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.

In order to classify a beneficiary as their fiancée, a petitioner must establish, among other things, that both parties have a bona fide intention to marry. Section 214(d)(1) of the Act.

The IMBRA criminal history reporting requirements are codified in Section 214(d)(1) of the Act, which states that a fiancée visa petition cannot be approved unless it includes “information on any criminal convictions of the petitioner for any specified crime . . . and information on any permanent protection or restraining order issued against the petitioner related to any specified crime described in paragraph (3)(b)(i).”²

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 The specified crimes listed at section 214(d)(3)(B)(i) of the Act are domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, stalking, or an attempt to commit any such crime.

The sole issue on appeal is whether the Petitioner has met his IMBRA reporting requirements regarding his criminal history records. In his Form I-129F, Petition for Alien Fiancé(e), the Petitioner answered “Yes” to Part 3, Question 1, which asks if the petitioner has ever been subject to a temporary or permanent civil or criminal protection or restraining order. He also answered “No” to Part 3, Questions 2.a, 2.b, and 2.c, which ask about the petitioner’s history of specified crimes, but did not answer Question 4.a, which asks whether the petitioner has ever been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance in any country, excluding certain traffic violations.

The Director sent a request for evidence (RFE) requesting an answer to Part 3, Question 4.a, as well as copies of all court and police records concerning any crime committed in relation to the protection or restraining order disclosed in Part 3, Question 1. The Petitioner responded by answering “no” to Question 4.a. The Director denied the petition, finding that the Petitioner had not fulfilled the IMBRA disclosure requirements by providing the requested documentation of the protection or restraining order.

On appeal, the Petitioner provides a letter stating that he has no criminal record, but that while he was divorcing his ex-wife, “she asked [him] to leave the house for a while through the civil judge.” He also provides a letter from the Pennsylvania State Police stating that there are no criminal records under the Petitioner’s name and date of birth.³ Because the evidence provided on appeal 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.

Beyond the decision of the Director, the Petitioner has not provided sufficient documentation to establish that both he and the Beneficiary have a bona fide intention to marry. In his Form I-129F, which was filed on March 25, 2022, the Petitioner stated that he had known the Beneficiary for two months before traveling to Singapore to meet her, where they “visited a couple of places and enjoyed the time together.” This statement was supported by travel documentation indicating that the Petitioner flew to Singapore on February 19, 2022; one photograph of the parties together; and two brief letters which stated that they first met on December 29, 2021, had met in person in Singapore, love each other, and intend to marry.

The record does not contain any information about how the parties met, when they decided to get engaged, or any other details about their relationship, such as documentation of wedding plans or financial support. There is also no documentation of any communication between them. Given that the parties had known each other for less than two months when the Petitioner travelled to Singapore, and for less than three months at the time the petition was filed, the documentation provided is insufficient to establish that they both have a bona fide intention to marry within 90 days of the Beneficiary’s entry into the United States.

Because the Petitioner has provided evidence material to the ground of the Director’s denial, and because the Director did not fully address the deficiencies in the evidence, we will remand this matter

³ Under Pennsylvania law, the issuance of a protective order does not require a criminal arrest or conviction, but rather that the plaintiff prove the allegation of abuse by a preponderance of the evidence. *See generally* 23 Pa. Stat. and Cons. Ann. § 6107.

to the Director to consider whether the Petitioner has met his IMBRA disclosure obligations and whether both the Petitioner and the Beneficiary have a bona fide intention to marry. The Director may request any additional evidence considered relevant to the new determination. 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.