



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

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

In Re: 28125021

Date: MAR. 05, 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 is legally able to enter into a valid marriage with the Beneficiary. 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 dismiss the appeal.

The Director concluded that the record was insufficient to establish that the Petitioner's Haitian divorce from N- J- is valid for immigration purposes. On November 8, 2023, we issued a combined notice of intent to dismiss and request for evidence (NOID/RFE), requesting that the Petitioner provide an original Extrait de Divorce, issued by the Haitian National Archives, showing the termination of his marriage to N- J-. 8 C.F.R. § 103.2(b)(5) (stating that USCIS may request the submission of original documents for review). Furthermore, beyond the decision of the Director, we noted that the record raised doubts about the validity of the Beneficiary's identity documentation, which in turn raised doubts about her ability to legally enter into a marriage with the Petitioner.

According to the U.S. Department of State's (DOS's) reciprocity table for Haitian civil documents, "[a]n Extrait de Naissance will list two dates: the date the person was born and the date that the birth was registered. A difference of more than two years between when a person was born and when that person was registered could be an indicator of fraud."¹ The record includes a photocopy of the Beneficiary's

¹ U.S. Dep't of State, Bureau of Consular Aff., *U.S. Visa: Reciprocity and Civil Documents by Country – Haiti*,

Extrait de Naissance which states that she was born in 1966, but her birth was not registered until over 40 years later in 2007. As noted in the NOID/RFE, the 40-year gap between the Beneficiary's birth and its registration is significantly longer than the two years which DOS indicates could be an indicator of fraud.

Where there are incongruities in the record, it is the Petitioner's burden to resolve these incongruities using independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). We therefore also requested an original Extrait de Naissance for the Beneficiary, issued by the Haitian National Archives. We further requested an explanation for the delay in registering the Beneficiary's birth, as well as evidence verifying her true identity, including her name and date of birth, in order to establish that she is legally able to enter into a marriage with the Petitioner. *Id.*; section 214(d)(1) of the Act.

The Petitioner was granted the maximum response period of twelve weeks to reply to the NOID/RFE. 8 C.F.R. § 103.2(b)(8)(iv). To date, we have not received any response. A benefit request may be denied as abandoned if a petitioner does not respond to an RFE or NOID by the required date. 8 C.F.R. § 103.2(b)(13)(i). Here, the Petitioner did not timely respond to the NOID/RFE or provide either of the original documents requested. The appeal will be dismissed for abandonment.

ORDER: The appeal is dismissed as abandoned under 8 C.F.R. § 103.2(b)(13).

<https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Haiti.html> (expand the section titled "Birth, Death, Burial Certificates").