

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28918559 Date: MAR. 20, 2024

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks the Beneficiary's admission to the United States under the fiancé(e) visa classification. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i).

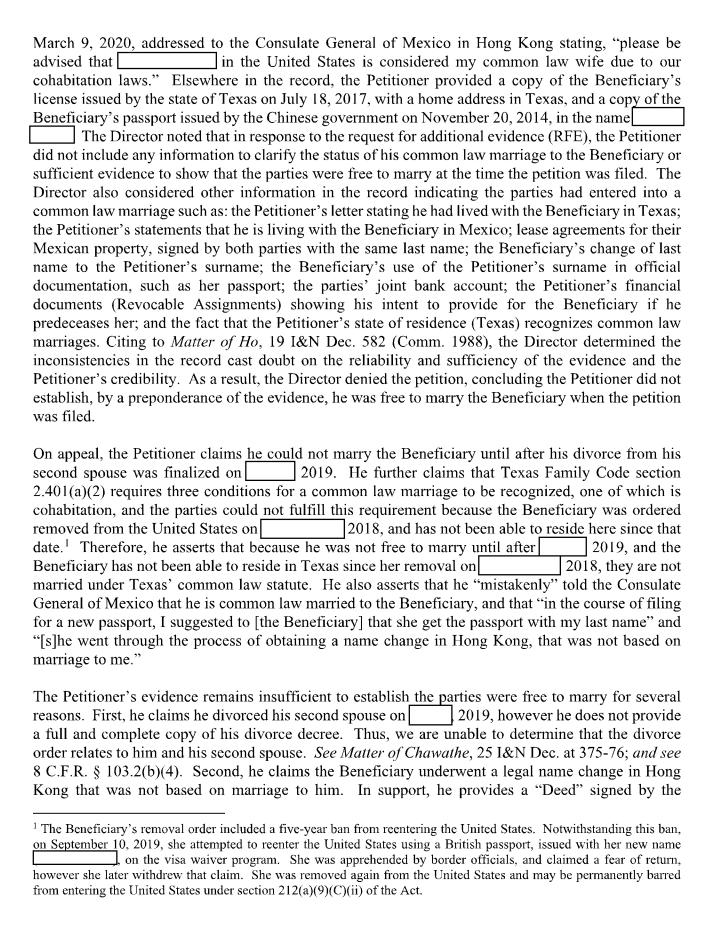
The Director of the California Service Center denied the petition, concluding that the record did not establish that the parties were free to marry at the time the petition was filed. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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 dismiss the appeal.

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if a petitioner establishes that the parties have previously met in person within two years before the date of filing the fiancé(e) 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 a period of 90 days after a beneficiary's arrival.

The regulations require a petitioner to establish eligibility at the time of filing the petition, and any evidence submitted in connection with a benefit request is incorporated into and considered part of the request. 8 C.F.R. § 103.2(b)(1). Moreover, a petitioner must provide all documents that are required to support a benefit request in accordance with the form's instructions. 8 C.F.R. § 103.2(b)(4). The form's instructions are incorporated into the regulations requiring its submission, and each form, benefit request, or other document must be filed with the fee(s) required by regulation. 8 C.F.R. § 103.2(a)(1).

The Petitioner filed this fiancée petition on January 20, 2021, and provided evidence to show he
divorced his prior two spouses. Specifically, he provided a death certificate for his first spouse,
showing that on the date she died 2016), she was divorced. He also provided a few pages (1,
2, and 19) from a court order, which he claims relates to his second spouse to prove their divorce on
2019. During these proceedings, the Petitioner provided a copy of a letter he wrote, dated



Beneficiary on May 23, 2019, in Hong Kong, stating that she renounces and abandons the use of her
former name and will be known as Although the document has the signature of a
solicitor, there is no indication that her name change was not based on a common law marriage to the
Petitioner, or indicate what name change procedures were followed. Thus, the document is insufficient
to establish that the Beneficiary's name change was not on account of her marriage to the Petitioner.
See Matter of Chawathe, 25 I&N Dec. at 375-76. Because the Petitioner has not established, by a
preponderance of the evidence, that the parties were free to marry each other when the petition was
filed, the appeal will be dismissed.

ORDER: The appeal is dismissed.