



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

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

In Re: 35075624

Date: NOV. 25, 2024

Appeal of California Service Center Decision

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

The Petitioner, a U.S. citizen, seeks the admission of the Beneficiary, a citizen of Senegal, as a “K-1” nonimmigrant under the fiancé(e) visa classification at section 101(a)(15)(K)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i).

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish the parties are free to marry each other at the time of filing the petition. 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.

I. LAW

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), provides that the petitioner must establish, among other things, that the parties are legally able and actually willing to conclude a valid marriage in the United States within a period of 90 days after the beneficiary’s arrival. A marriage will be valid for immigration purposes only where any prior marriage of either party has been legally terminated and both individuals are free to contract a new marriage. *Matter of Hann*, 18 I&N Dec. 196, 198 (BIA 1982). Both the petitioner and beneficiary must be unmarried and free to conclude a valid marriage at the time the fiancé(e) petition is filed. *Matter of Souza*, 14 I&N Dec. 1, 3 (Reg’l Comm’r 1972); *see also* 8 C.F.R. § 103.2(b)(1) (providing that a petitioner must establish eligibility for an immigration benefit at the time of filing the benefit request).

II. ANALYSIS

The Petitioner filed the instant fiancée petition in October 2022. Upon review of the initial evidence, the Director issued the Petitioner a request for evidence (RFE) explaining that the document titled “Bulletin de Deces” did not satisfy her burden of demonstrating that the Beneficiary is legally free and able to marry her. The document purports to establish that the Beneficiary’s prior spouse,

is deceased. However, because the U.S. Department of State’s civil documents list requires an “Extrait du Registre des Actes de Deces ou certificate de décès” issued by “La Mairie” and signed by the “Officier d’Etat Civil” to establish an individual is deceased, the Director provided the Petitioner an opportunity to submit that document. The RFE also informed the Petitioner of the procedures to follow in the event a death was not registered with civil authorities within a year of the individual’s death. The civil documents list also explained that there are no acceptable alternate documents. And the Director’s RFE informed the Petitioner that U.S. government records indicate the Beneficiary was married to two individuals, and that evidence of termination of both his marriages in accordance with the civil documents list is required for approval of her fiancée petition. In response, the Petitioner submitted a document titled “Copie Litterale D’Acte De Deces” to establish [redacted] death, however no evidence was submitted to establish the Beneficiary’s second marriage ended; instead, the Petitioner provided a short statement explaining that the Beneficiary has only one prior spouse, [redacted]

The Director denied the fiancée petition, concluding that the Petitioner did not satisfy her burden to establish the Beneficiary’s termination of his prior marriages and thus, that the parties are legally able and actually willing to conclude a valid marriage in the United States within a period of 90 days after his arrival, as required by the regulations. The Director noted that the evidence of [redacted] death did not conform to the U.S. Department of State’s civil documents list for Senegal. Furthermore, the “Bulletin de Deces” or “Death Certificate” listed her “reason of death: Covid-19.” However, because the same document alleges Ms. [redacted] died in 2012 (seven years before the COVID-19 pandemic) the document lacked credibility. We agree.

On appeal, the Petitioner contends that the individual who provided a translation of the death certificate, titled “Bulletin de Deces,” violated their oath by including incorrect information on the English translation of the document. Furthermore, the Petitioner explains that she submitted the document without carefully reviewing it because the Beneficiary mailed her the document “close to the deadline.” In support, the Petitioner resubmits the same document, Death Certificate (“Acte de Deces”) issued on August 30, 2022 in [redacted] Senegal, with an English translation that omits the cause of death as “Covid-19.” She also provides an “Authorization Judgment of Registration of Death on the Civil Status” issued by the Court of Appeal of [redacted] District Court of [redacted] in Senegal on June 22, 2022, which explains that [redacted] died on [redacted] 2012 in [redacted] but that her death “has not yet been declared to the civil registry.”

Upon de novo review, the Petitioner’s evidence does not satisfy her burden to establish the parties are legally able and free to marry upon the Beneficiary’s entry to the United States for the following reasons. First, we acknowledge the additional document and the corrected English translation, however, neither of these documents conform to the U.S. Department of State’s civil documents list. *See Matter of Chawathe*, 25 I&N Dec. at 375 (standing for the proposition that to determine whether a petitioner has met their burden under the preponderance standard, we consider the quality, relevance, probative value, and credibility of the evidence). Second, while we acknowledge the Petitioner’s explanation that in Senegal, “death certificates are rarely issued in case of natural death,” it is nevertheless her burden to establish the termination of the Beneficiary’s prior marriages, and this statement is insufficient for that purpose. *Id.* Furthermore, the Petitioner does not provide any corroboration for this assertion. *Id.* Third, while we also acknowledge the Petitioner’s assertion that she does not know how the translator included the incorrect cause of death information, it is

insufficient to explain the discrepancy. *Id.* And, while we acknowledge the corrected death certificate does not include the reference to “Covid-19,” the discrepant information casts doubt on the credibility of the Petitioner’s evidence. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (standing for the proposition that discrepancies in a record must be resolved with independent, objective evidence pointing to where the truth lies). Finally, although the Petitioner asserts that the Beneficiary “had only one previous marriage,” U.S. government records indicate that on a November 2008 visa application, the Petitioner stated he had two spouses. As such, the Petitioner’s evidence is insufficient to satisfy her burden of establishing the Beneficiary’s has terminated all prior marriages, and that he is legally free and able to marry her. *See Matter of Chawathe*, 25 I&N Dec. at 375.

III. CONCLUSION

The Petitioner has not established eligibility for the benefit sought under section 101(a)(15)(K)(i) of the Act because, a preponderance of the evidence, does not establish the Beneficiary is legally able and actually willing to conclude a valid marriage in the United States within a period of 90 days after his arrival.

ORDER: The appeal is dismissed.