



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

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

In Re: 32544665

Date: SEP. 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 fiancé. 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 Beneficiary has a bone fide intention to marry the Petitioner. 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 have a bona fide intention to marry and 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.

In her initial filing, the Petitioner provided evidence including travel records showing she had traveled to Nigeria at various points, letters from herself and the Beneficiary stating their intent to marry, and photographs of herself and the Beneficiary together. The Director issued a request for evidence (RFE) requesting further documentation of the Beneficiary's bona fide intention to marry the Petitioner without explaining why the provided evidence was inadequate. After reviewing the Petitioner's response to the RFE, the Director denied the petition, concluding, among other things, that the Petitioner's statements regarding when she first met the Beneficiary were contradicted by her travel records, and that the provided photographs were insufficient to show the development of the parties' relationship.

On appeal, the Petitioner asserts that the Director misapplied the law and disregarded the provided evidence. Upon review, we conclude that the Director's RFE did not properly inform the Petitioner of the issues in her initial evidence which formed the basis of the denial, such as the contradictions regarding the relationship timeline and the insufficiency of the photographs for showing the parties' bona fide relationship. The Petitioner therefore did not have a reasonable opportunity to respond to these issues before the petition was denied. 8 C.F.R. § 103.2(b)(8)(iv) (stating that a request for evidence will specify the bases for the proposed denial sufficiently to give adequate notice and sufficient information to respond).¹ Because the Director did not fully and clearly explain the deficiencies in the evidence before denying the petition, we will withdraw the denial and remand this matter.

Additionally, beyond the decision of the Director, we note that the record does not show that the Beneficiary was legally able to enter into a marriage with the Petitioner as of the petition filing date. 8 C.F.R. § 103.2(b)(1) (stating that eligibility must be established at the time a benefit request is filed). First, the Department of State's reciprocity schedule indicates that the dissolution of Nigerian registry marriages should be documented with a Decree Nisi and Decree Absolute, but the document provided by the Petitioner is instead a certified copy of the Beneficiary's divorce judgment.² She therefore has not provided the appropriate documentation to show the termination of the Beneficiary's marriage.

Second, the provided document indicates that the Petitioner's judgment was a non-final divorce nisi, which would only become final three months after the judgment date. Since the judgment was entered on [REDACTED] 2022, the divorce could be finalized no earlier than [REDACTED] 2023. The underlying petition in this case was filed on January 23, 2023. Therefore, the record indicates that the Beneficiary's divorce was not final as of the time of filing, and he was not legally able to enter into a marriage with the Petitioner at that time. Section 214(d)(1) of the Act.

For the reasons discussed, the Director's decision is withdrawn, and we will remand the matter for further consideration of all evidence presented, including the materials submitted on appeal. Because the issues regarding the Beneficiary's divorce were not previously addressed, the Director may wish to issue a new RFE outlining the deficiencies above, requesting additional evidence in support, and allowing the Petitioner an opportunity to respond.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ See generally 1 *USCIS Policy Manual* E.6(F)(3) (stating that RFEs should state "why the evidence submitted is insufficient").

² Bureau of Consular Aff., U.S. Dep't of State, *Visa Reciprocity Table*, Nigeria, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html>.