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

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

MATTER OF N-O-A-

DATE: APR. 25, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). A U.S. citizen may petition to bring a fiancé(e) (and that person's children) to the United States in K nonimmigrant visa status for marriage. The U.S. citizen must establish that the parties have previously met in person within 2 years before the date of filing the 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 90 days of admission.

The Director, Texas Service Center, denied the petition. The Director concluded that the Beneficiary cannot be classified as a fiancée for immigration purposes because the Petitioner submitted a letter stating that he and the Beneficiary were married as of [REDACTED]

The matter is now before us on appeal. In the appeal, the Petitioner submits additional evidence and claims that the Director erred in concluding that he and the Beneficiary were already married because the evidence he had submitted establishes that the event that took place in Ghana on [REDACTED] was not a marriage ceremony, but engagement festivities.

Upon *de novo* review, we will sustain the appeal.

I. LAW

The Petitioner is seeking to classify the Beneficiary as his fiancée.

Subject to subsections (d) and (p) of section 214 of the Act, section 101(a)(15)(K)(i) of the Act provides nonimmigrant classification for an alien who "is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission . . ."

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), states in pertinent part that a fiancé(e) petition

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date

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of filing the 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 ninety days after the alien's arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person

II. ANALYSIS

The issue on appeal is whether the Petitioner and Beneficiary are already married and thus not legally able to conclude a valid marriage within 90 days on the Beneficiary's arrival in the United States. The Petitioner claims that he and the Beneficiary are not married and that the Director's finding that their engagement ceremony in 2015 was a marriage ceremony was an administrative error. Upon review of the evidence submitted on appeal, which clarifies that the ceremony that took place in [REDACTED] was an engagement party and not a wedding, we find that the Petitioner has established that he and the Beneficiary are legally able to marry and that he meets the requirements to classify the Beneficiary as his fiancée.

The Petitioner filed the petition on December 29, 2014. Both the Petitioner and the Beneficiary must be unmarried and free to conclude a valid marriage at the time the petition is filed. *See Matter of Souza*, 14 I&N Dec. 1 (Reg'l Comm'r 1972). In response to a request for evidence issued by the Director, the Petitioner submitted evidence, including photographs and a letter stating, "I write to notify you that we are already married as of [REDACTED]. In the letter the Petitioner referred to the Beneficiary as his wife and referred to "CD copies of the marriage ceremony that took place in Ghana." Based on this information, the Director concluded that the Petitioner and Beneficiary were not legally able to marry and denied the petition.

In the appeal the Petitioner submits photographs and other evidence indicating that the ceremony that took place on [REDACTED] was an engagement party and not a wedding ceremony. He states that their families arranged a post-engagement party, but it was not an official marriage. Upon review of the evidence submitted on appeal and the statement of the Petitioner clarifying that a wedding had not taken place, but rather an engagement party, we find that the Petitioner and Beneficiary are legally able to marry and she is eligible to be classified as a fiancée for immigration purposes.

III. CONCLUSION

It is the Petitioner's burden to establish eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden. Accordingly, we sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of N-O-A-*, ID# 16148 (AAO Apr. 25, 2016)