



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

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

MATTER OF A-P-M-

DATE: JAN. 5, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a fiancé(e) of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The Director denied the nonimmigrant visa petition because the Petitioner did not submit the required initial evidence in support of the Petition for Alien Fiancé(e). The Petitioner timely filed an appeal.

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as:

subject to subsections (d) and (p) of section 214, an alien who -

(i) 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 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. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Form I-129F, including a description of the required initial evidence, may be found in the *Instructions to the Form I-129F*.

Matter of A-P-M-

The Petitioner filed the fiancé(e) petition with USCIS on May 5, 2014, without all the required supporting initial evidence. For this reason, the Director issued a request for evidence (RFE) requesting the Petitioner to submit additional documents, including a statement from the Beneficiary of his intent to marry the Petitioner within 90 days of the Beneficiary's admission into the United States, legal copy of the final divorce decree showing the termination of the Petitioner's prior marriage and proof that the Petitioner and the Beneficiary met in person within the two-year period immediately preceding the filing of the petition. The Petitioner submitted some but not all the documents requested by the Director. The Petitioner did not submit a statement from the Beneficiary of his intent to marry the Petitioner within 90 days of his admission into the United States. For this reason, the Director denied the petition on December 16, 2014.

On appeal, the Petitioner submitted documents previously submitted into the record but did not submit the Beneficiary's statement of intent to marry the Petitioner within 90 days of his admission into the United States. On September 15, 2015, we issued an RFE, requesting that the Petitioner submit a statement from the Beneficiary of the Beneficiary's intent to marry the Petitioner within 90 days of his admission into the United States. The Petitioner timely responded and submitted the requested documentation.

The evidence of record demonstrates that the Petitioner has met all of the Form I-129F evidentiary requirements. The Petitioner has now overcome the basis of the Director's denial.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of A-P-M-*, ID# 13003 (AAO Jan. 5, 2016)