



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

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

MATTER OF D-G-H-

DATE: JAN. 20, 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 fiancée 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 nonimmigrant visa petition. The matter is now before us on appeal. The appeal will be sustained.

The Director denied the nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the Petitioner failed to submit evidence of the Beneficiary's intent to marry within 90 days of her admission into the United States. On appeal the Petitioner submits a statement from the Beneficiary and provides responses to questions on the Form I-129F concerning possible criminal history, as required by the International Marriage Broker Regulation Act (IMBRA).

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 Petition for Alien Fiancé(e), including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

The Petitioner filed the fiancé(e) petition with USCIS on April 30, 2014, without sufficient supporting evidence. For this reason, the Director issued a request for additional evidence instructing the Petitioner to submit evidence of the couple's mutual intention to marry within 90 days of admission to the United States and to provide information required by IMBRA. In response, the Petitioner submitted a statement from the Petitioner indicating his intent to marry the Beneficiary within 90 days of her entry into the U.S.

The Director denied the petition finding that the Petitioner had failed to submit all the required evidence. On appeal, the Petitioner submits a statement from the Beneficiary and provides answers to the IMBRA questions on the Form I-129F.

An examination of the record reveals that both the Petitioner and Beneficiary have submitted statements expressing their intent to marry within 90 days of the Beneficiary's entry into the United States. The Petitioner has also submitted a statement and provided answers to the IMBRA questions from the Form I-129F and states that he has not been convicted of any of the listed crimes.¹ The record indicates that the Petitioner is eligible to classify the Beneficiary as a fiancé(e) of a United States citizen.

The appeal will be sustained for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

ORDER: The appeal is sustained.

Cite as *Matter of D-G-H-*, ID# 15134 (AAO Jan. 20, 2016)

¹ IMBRA provides that a petitioner for a nonimmigrant visa for an alien fiancé(e) must submit with his or her Form I-129F information on any criminal convictions for certain specified crimes.