



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

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

MATTER OF M-E-R-

DATE: JUNE 16, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E) PURSUANT TO § 101(A)(15)(K) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1101(A)(15)(K)

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary, a native and citizen of Mexico, as her fiancé. 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 two 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, concluding that the Petitioner did not establish that she met the Beneficiary in person during the two-year period before she filed the Form I-129F.

The matter is now before us on appeal. In the appeal, the Petitioner submits additional evidence. We issued a notice of intent to deny (NOID), however, because the record lacked sufficient evidence to establish that the Petitioner and the Beneficiary met in person during the two-year period immediately preceding the filing of the petition and evidence showing the Beneficiary intends to marry the Petitioner within 90 days of his arrival in the United States in K-1 status. In response to the NOID, the Petitioner submits additional evidence.

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

I. LAW

The Petitioner is seeking to classify the Beneficiary as her fiancé.

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 a foreign national 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 that a fiancé petition can be approved only if the petitioner establishes that the parties have previously met in person within two 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 foreign national's arrival. It also provides discretionary authority to waive the requirement that the parties have previously met in person.

## II. ANALYSIS

The first issue presented on appeal is whether the Petitioner has established that she met the Beneficiary in person within the two years before she filed Form I-129. The Petitioner submits photographs of herself and the Beneficiary and proof of her having travelled to Mexico in August 2013 to establish that she and the Beneficiary met in person in 2013. We find the evidence demonstrates the Petitioner and the Beneficiary met in person within the two years before filing Form I-129. The remaining issue is whether the record establishes that the Beneficiary is actually willing to conclude a valid marriage in the United States within a period of 90 days after his arrival. In our NOID we informed the Petitioner that the record did not include such evidence and requested that she submit it. She does not provide this evidence, however, with her response to the NOID. For this reason, we will dismiss the appeal.

The Petitioner filed the fiancé petition with U.S. Citizenship and Immigration Services on September 15, 2014. Therefore, the Petitioner and the Beneficiary were required to have met in person between September 15, 2012, and September 15, 2014. The Director denied the petition because the Petitioner did not submit evidence that she and the Beneficiary met during the two-year period immediately preceding the date she filed the petition. The Petitioner stated that she lived in the Beneficiary's town in Mexico until 2013, when she moved to Texas; that after three months she returned to Mexico; and that she stayed with the Beneficiary for three months before she returned to Texas. The Petitioner did not provide corroborative evidence of having met the Beneficiary in person during this time. In response to the Director's request for evidence, the Petitioner provided photographs of herself with the Beneficiary and their child. The Director deemed the evidence insufficient to satisfy the two-year meeting requirement, because the photographs were not dated.

On appeal, the Petitioner submits photographs of herself with the Beneficiary, with handwritten dates. Two of the photographs are dated July 2013 and the remaining photos are dated 2008, 2009, 2010, and 2015, outside of the two-year period. Because the two photographs with handwritten dates from 2013 were not supported by documentation, such as airline tickets or passport stamps, to confirm that the Petitioner and the Beneficiary met in person that year, we issued a NOID pointing out this deficiency in the record. In response to our NOID, the Petitioner submits an airline ticket and boarding pass showing that she travelled to Mexico City in August 2013. The photographs, airline ticket, and boarding pass satisfy the technical two-year meeting requirement. Therefore, the record establishes that the Petitioner and the Beneficiary met in person between September 15, 2012, and September 15, 2014.

Regarding the remaining issue in this proceeding, we also notified the Petitioner in the NOID that the record lacks evidence to establish that she and the Beneficiary intend to marry within 90 days of his arrival in the United States in K-1 status. Although the Director's decision indicates that the Petitioner met this requirement, we notified the Petitioner that the record does not support that finding.

The *Instructions* to the Form I-129F require that both the petitioner and the beneficiary state their intent to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status. In response to the NOID, the Petitioner submits a statement of her intention to marry the Beneficiary within 90 days of his arrival in the United States. However, the record still lacks such evidence from the Beneficiary. The Petitioner and the Beneficiary have submitted statements of their intention to marry each other and a statement describing their relationship. The record also includes evidence that the Petitioner and Beneficiary have a child together. This evidence, however, does not meet the technical requirement that the Beneficiary state his intent to marry the Petitioner within 90 days of his admission into the United States in K-1 status. For this reason, we must dismiss the appeal.

### 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 not met that burden, because she has not submitted evidence showing the Beneficiary's intent to marry her within 90 days of his arrival in the United States. Accordingly, we dismiss the appeal.

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-E-R-*, ID# 15948 (AAO June 16, 2016)