



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

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

In Re: 28233212

Date: NOV. 14, 2023

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 parties have a bona fide intention to marry within 90 days of the Beneficiary's admission to the United States. The matter is now before us on appeal. 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 dismiss the appeal.

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 each other within 90 days of the beneficiary's admission to the United States and are legally able to do so. Section 214(d)(1) of the Act. A bona fide intention to marry cannot be solely for the purpose of obtaining an immigration benefit.

The sole issue on appeal is whether the Petitioner and Beneficiary have a bona fide intention to marry. Upon review, while there is evidence demonstrating the Petitioner's intention to marry the Beneficiary, the record does not contain sufficient documentation to establish the Beneficiary's bona fide intention to marry the Petitioner, for the reasons below.

In the Form I-129F, Petition for Alien Fiancé(e), the Petitioner stated of the Beneficiary: "I have known him since childhood. I last saw him in October 2020, when I was in Tanzania and he proposed marriage to me, and we became engaged." The petition was accompanied by a cover letter stating that "the couple met as young people which [Petitioner] stayed with her family in Tanzania and they remained in touch through the years. He proposed on October 2020, during one of her visits to

Tanzania.” The initial filing also included letters of intent to marry, a travel itinerary for the Beneficiary’s trip to [redacted] Tanzania, from October 24, 2020, to November 15, 2020, two photographs of the Petitioner and Beneficiary together, and two photographs of their engagement party.

The Director issued a request for evidence (RFE) requesting, among other things, further evidence of the parties’ bona fide intent to marry. In response, the Petitioner provided a statement regarding her relationship with the Beneficiary which states in relevant part:

[Beneficiary] and I met since childhood, we used to be neighbors in [redacted] Tanzania. We lost contact when my family and I came to America in 1995. [Beneficiary] got in touch with my cousin through Facebook and told my cousin that he [had] been looking for me, so my cousin gave him my Facebook names, on May 20th 2020 [Beneficiary] sent me a friend request since that day we been following each other on Facebook, Instagram, WhatsApp and BOTIM App.

The statement goes on to say that the Petitioner went to [redacted] in October 2020 to celebrate her birthday, at which point the Petitioner proposed to her in front of members of both of their families. The RFE response also contains screen captures of chats between an unnamed party and “[redacted]”<sup>1</sup> from April to June 2021; two photographs of the parties together; a photograph of the Petitioner wearing her engagement ring; a flight itinerary for a July 2022 trip the Petitioner took to [redacted] United Arab Emirates to meet the Beneficiary; a May 2022 summary of estimated costs for a one hundred-guest wedding from a venue in Maryland; a receipt which states that it is for a \$1,000 payment the Petitioner made for a wedding reception; and a second \$1,000 receipt signed by the Petitioner.

The Director denied the petition, noting that there was no documentation of the parties’ communication prior to the petition’s April 8, 2021 filing date, that the chats provided were minimal and not under the parties’ names, and that the travel and wedding arrangements that occurred after the petition’s filing date were of limited value in establishing the bona fides of the relationship. The denial further noted that while the petition stated that the parties were childhood friends in Tanzania, the Petitioner is from the Democratic Republic of the Congo and moved to the United States when she was 15 years old and the Beneficiary was five years old. The Director concluded that the provided evidence was insufficiently probative to establish that both parties have a bona fide intention to marry.

On appeal, the Petitioner provides an attorney cover letter stating that the Director “inappropriately focuses on the age difference” between the parties, and that marriages with a 10-year age difference are common. In fact, the denial specifically states that the age difference between the parties is not inherently a negative factor, but instead raises doubts about the claim that the parties were friends as children in Tanzania. These doubts have not been resolved on appeal.

The Petitioner’s appellate statement indicates that she moved from the Democratic Republic of the Congo to Tanzania to join her father in 1985, and “[o]ur family and [redacted] family met at that time

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<sup>1</sup> The Form I-129F does not name this as one of the Beneficiary’s aliases.

and we have been friends ever since then.”<sup>2</sup> However, in response to the RFE, she had stated that “[w]e lost contact when my family and I came to America in 1995” and only started communicating again 25 years later in 2020. Where there are contradictions in the evidence, it is the Petitioner’s burden to resolve these contradictions using independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, the Petitioner has stated at various points that she and the Petitioner either did or did not stay in touch in the 25 years between her immigration to the United States and when the Beneficiary received her contact information from her cousin, and has not provided probative evidence to resolve this contradiction. This raises doubts as to the parties’ relationship history and whether they have a bona fide intent to marry. *Id.*

Regarding the lack of evidence that the parties communicated prior to the petition filing date, the attorney letter states that this “ignores the wide alternatives for communication of persons in modern times” and that “Petitioner and Beneficiary communicate regularly through text messages and other social media.” To support this claim, the appeal includes more screen captures of chats and texts, including some dated between May 2020 and April 2021 and labeled with the parties’ names.

We will not consider evidence submitted for the first time on appeal where, as here, the Petitioner was previously put on notice and given a reasonable opportunity to provide this evidence. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence to be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial”). The Director’s RFE asked for evidence of correspondence between the parties and stated that evidence dating from the beginning of the relationship would be especially persuasive. As such, the Petitioner was given notice and an opportunity to provide the chat and text evidence prior to the petition’s denial, and we will not consider it on appeal.

Furthermore, even if we were to consider this newly-provided evidence, which we will not, it does not suffice to establish the Beneficiary’s bona fide intention to marry the Petitioner. While the chats address the Director’s concerns regarding the lack of documented communication between the parties prior to the petition filing date, their content largely consists of brief greetings, endearments, and travel updates. Aside from one instance of the Petitioner calling the Beneficiary “hubby,” the conversations never mention engagement or wedding plans.

The only evidence which directly addresses the Beneficiary’s intention to marry the Petitioner is the letter of intent submitted with the initial filing, along with an identical letter from the Petitioner. While not mentioned by the Director, we note that the signatures on both letters have the same handwriting and use the same ink, and both are dated April 3, 2021, five days prior to when the petition was received by USCIS. Given the fact that the Beneficiary was in Tanzania on this date, while the Petitioner was in the United States, this raises doubts as to whether the Beneficiary actually signed his intent letter. Neither of the letters is notarized.

When evaluating a petition using the preponderance of the evidence standard, we examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of

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<sup>2</sup> As noted above, the Beneficiary was born in 1990.

the totality of the evidence, to determine whether the fact to be proven is “probably true.” *Matter of Chawathe*, 25 I&N Dec. at 376. Here, the most relevant evidence of the Beneficiary’s intention to marry the Petitioner consists of a letter with a signature in the same handwriting as the Beneficiary’s, which raises doubts as to its authenticity and credibility. Additionally, as explained above, the Petitioner has not provided a consistent account of the parties’ relationship history. In this context, while the chats and photographs do have evidentiary weight, they are insufficiently probative to establish that the Beneficiary “probably” has a bona fide intention to marry the Petitioner. *Id.* As such, the Petitioner has not overcome the Director’s denial ground.

Additionally, beyond the decision of the Director, we note that the Petitioner has not established that the Beneficiary is legally able to enter into a valid marriage, because she has not provided acceptable documentation of his divorce from [REDACTED]. According to the Department of State’s reciprocity schedule for Tanzania, for immigrant visa purposes, a Tanzanian divorce should be documented through a certified copy of the divorce decree.<sup>3</sup> Here, the supporting evidence only includes a copy of an entry in the Tanzanian Register of Annulments and Divorce. This does not suffice to document the termination of the Beneficiary’s prior marriage and establish that he is legally able to enter a valid marriage with the Petitioner.<sup>4</sup>

The Petitioner has not established that the Beneficiary has a bona fide intent to marry her within 90 days of entering the United States or that he is legally able to enter into a valid marriage at that time. Therefore, she has not met the statutory and regulatory requirements for classifying the Beneficiary as a K-1 nonimmigrant.

**ORDER:** The appeal is dismissed.

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<sup>3</sup> U.S. Dep’t of State, Bureau of Consular Aff., *U.S. Visa: Reciprocity and Civil Documents by Country – Tanzania*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Tanzania.html>.

<sup>4</sup> We further note that while the Form I-129F, Part 2, Question 36, states that the Beneficiary’s prior marriage ended on February 10, 2017, the provided register entry states that this marriage began on May 15, 2017, and ended on April 16, 2020, seven months before his engagement to the Petitioner. No explanation is provided for the contradictory dates. *Matter of Ho*, 19 I&N Dec. at 591-92.