U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21712668

Date: AUG. 19, 2022

Appeal of California Service Center Decision

Form I-129F, Petition for Alien Fiancé(e)

The Petitioner, a U.S. citizen, seeks the Beneficiary's admission to the United States under the fiancé(e) visa classification. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i) (the "K-1" visa classification). A U.S. citizen may petition to bring a fiancé(e) to the United States in K-1 status for marriage.

The Director of the California Service Center denied the Form I-129F, Petition for Alien Fiancé(e) (fiancé(e) petition), concluding that the Petitioner did not submit sufficient evidence to establish eligibility for a fiancé(e) visa.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 214(d)(1) of the Act states that a fiancé(e) petition can be approved only if a petitioner establishes that the parties have previously met in person within two years before the date of filing the fiancé(e) 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 90 days after a beneficiary's arrival.

At issue is whether the Petitioner has established, by a preponderance of the evidence, that the Beneficiary is legally able and free to marry the Petitioner.

II. ANALYSIS

The Petitioner, a native of Thailand, is a naturalized citizen of the United States. The Petitioner filed the instant fiancé(e) petition on behalf of the Beneficiary, a citizen of Laos, in March 2020. The Director issued a request for additional evidence (RFE) to which the Petitioner filed a timely response. The RFE explained that the Petitioner had not provided sufficient evidence to establish the Beneficiary's legal ability to marry him.

The Petitioner responded to the RFE with a copy of a document, and its English translation, labeled "The Dispute Resolution in Village Notes," dated "05/10/2019." The document purports to show that the Beneficiary and her spouse went before members of their Laotian village [redacted] to mediate their marital disputes. After mediating, the document reflects that this village authority issued "results" and determined (among other things) that it was the Beneficiary's responsibility to obtain a divorce certificate. Such language suggests strongly that this document is not a final divorce decree, and the Director denied the petition accordingly.

On appeal, the Petitioner submits a personal statement, and a "divorce certificate" issued by the [redacted] District, "District Home Affairs Office." In his statement, the Petitioner asserts that under Laotian law, specifically "paragraph 2 of Article 17 of the Family Registration Law," a voluntary divorce that is agreed to by both parties and which has been disputed and agreed to before village authorities can be registered with government authorities without a court proceeding. We consider the U.S. Department of State's (DOS) "Lao People's Democratic Republic Reciprocity Schedule," as the authority for which documents are acceptable evidence of divorce for immigration purposes, and it does not support the Petitioner's assertion. The reciprocity schedule explains that "[a] divorce decree must be issued by the court in the district where the couple is resident for a divorce to be final. A divorce certificate issued by a village or district official that is not a member of the court is not sufficient." *See* https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/LaoPeoplesDemocraticRepublic.html (last visited Aug. 19, 2022).

We are unable to accept assertions as evidence in these proceedings, and the Petitioner has not provided objective evidence to establish how a divorce certificate issued by the "District Home Affairs Office," is final evidence of divorce according to our guidelines, which require a divorce decree issued by a court. Furthermore, the Petitioner's assertion contradicts DOS guidance as to what documentation constitutes sufficient evidence of divorce. As such, we can not accept this documentation as final evidence of the Beneficiary's freedom to marry him.

It is the Petitioner's burden to establish, by a preponderance of the evidence, all eligibility criteria. The Petitioner's statement, and the additional document provided on appeal, are insufficient to establish that the Beneficiary's divorce is final, according to our guidelines. The record therefore does not demonstrate her legal eligibility to marry the Petitioner at the time of filing. As such, and for the reasons stated above, the petition must remain denied.

ORDER: The appeal is dismissed.