

(b)(6)



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

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

MATTER OF A-M-

DATE: OCT. 8, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE 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 (INA, or the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, California Service Center, denied the petition. We dismissed a subsequently filed appeal. The matter is now before us on a motion to reopen and reconsider. The motion will be granted.

The director denied the nonimmigrant visa petition because the Petitioner failed to establish that he and the Beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) (Form I-129F), or that he is exempt from such a requirement. On appeal, the Petitioner submitted a copy of his Macedonian passport issued in [REDACTED] Macedonia on October 14, 2013. We found this piece of evidence sufficient to establish that the Petitioner and the Beneficiary met in person during the two-year period immediately preceding the filing of the petition. We determined that the Petitioner had overcome the director's ground for denial and withdrew the director's decision.

We also found that documentation the religious marriage certificate issued under the Islamic Sherihat indicates that the Petitioner and the Beneficiary took part in a religious marriage ceremony on [REDACTED] [REDACTED], 2013, while the Petitioner was visiting Macedonia, and that they are not legally able to conclude a valid marriage within 90 days of the Beneficiary's admission into the United States. We dismissed the appeal for this reason.

The regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen "state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence." On motion, the Petitioner submits additional evidence.

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. . . .

(b)(6)

*Matter of A-M-*

On motion, the Petitioner states that the religious marriage ceremony on [REDACTED] 2013, is not a legal marriage under the law of Macedonia and that only a civil marriage ceremony is a fully recognized legal marriage in Macedonia. The Petitioner also states that he and the Beneficiary are not legally married for immigration purpose and that the Beneficiary is eligible for a K-1 visa to come to the United States as the fiancée of a U.S. citizen. The Petitioner submits information on marriage procedures in Macedonia from the U.S. Embassy in Macedonia; a Macedonia Reciprocity Schedule from the U.S. Department of State, which indicates that only civil marriages have been legal in Macedonia since 1946; a “Certificate for Single Marital Status” issued by the Republic of Macedonia Ministry of Justice certifying that the Beneficiary is single; and a certificate from the Islamic religious community of [REDACTED] Macedonia, indicating the religious ceremony between the Petitioner and Beneficiary was an engagement act.

In determining the validity of the marriage is that the law of the place of marriage celebration controls; if the law is complied with and the marriage is recognized, then the marriage is deemed to be valid for immigration purposes. *See Matter of Lovo-Lara*, 23 I&N Dec. 746 (BIA 2005); *Matter of Da Silva*, 15 I&N Dec. 778 (BIA 1976); *Matter of H-*, 9 I&N Dec 640 (BIA 1962).

Based on the evidence submitted on motion, the Petitioner and the Beneficiary are not married for immigration purposes because their 2013 religious marriage ceremony is not a legal marriage under Macedonian law. The evidence in the record indicates that a civil marriage ceremony is required for a marriage to be legally recognized in Macedonia.

The record also includes an explanation from the Islamic community where the religious ceremony took place that the religious ceremony between the Petitioner and the Beneficiary was an engagement and not an official wedding ceremony. The information on marriage procedures in Macedonia from the Embassy of the United States in [REDACTED] Macedonia, further states that only a civil marriage ceremony is a fully recognized legal marriage in the country. The record also includes a “Certificate for Single Marital Status” issued by the Ministry of Justice, Department for Registry Records in [REDACTED] Macedonia, certifying that the Beneficiary is single and that there is no barrier to her marrying the Petitioner.

Based on the evidence of record, the Petitioner and the Beneficiary are not legally married under Macedonian law as there is no indication they registered a civil marriage as required by Macedonian law. Accordingly, the Petitioner and the Beneficiary are not legally married for immigration purposes. The Petitioner has therefore overcome the basis of our dismissal of the appeal based on the Petitioner’s failure to establish that he and the Beneficiary are legally able to marry within 90 days of the Beneficiary’s admission into the United States. We will withdraw our previous decision dismissing the appeal.

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. The motion to reopen and reconsider is granted and the appeal is sustained.

*Matter of A-M-*

**ORDER:** The motion to reopen and reconsider is granted and the appeal is sustained.

Cite as *Matter of A-M-*, ID# 13186 (AAO Oct. 8, 2015)