



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

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

MATTER OF S-K-S-

DATE: MAY 13, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a U.S. citizen, seeks to classify the Beneficiary as his fiancée. *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, California Service Center, denied the petition, concluding that the Petitioner did not submit evidence of the Beneficiary's intent to marry him within 90 days of her admission into the United States.

The matter is now before us on appeal. The Petitioner submits additional evidence and states that he intends to marry the Beneficiary within 90 days of her arrival in the United States.

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

I. LAW

The Petitioner is seeking to classify the Beneficiary as his fiancée.

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 an alien 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(e) 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 alien's arrival. It also provides discretionary authority to waive the requirement that the parties have previously met in person.

II. ANALYSIS

The only issue presented on appeal is whether the Petitioner has established that the Beneficiary has a bona fide intention to marry him and is actually willing to conclude a valid marriage in the United States within 90 days after her arrival. The Petitioner states that he intends to marry the Beneficiary within 90 days of her arrival in the United States and submits a letter from the Beneficiary indicating she intends to marry the Petitioner within 90 days of her arrival and a letter from the pastor of his church stating that he will marry the Petitioner and Beneficiary within 90 days of her arrival. We find that the record now contains statements from both the Petitioner and the Beneficiary indicating their mutual intent to marry within 90 days of the Beneficiary's U.S. admission.

The Petitioner filed the fiancé(e) petition without sufficient supporting documentation. The Director issued a request for evidence that the Petitioner and Beneficiary had met in person during the two-year period immediately preceding the filing of the petition, evidence of the Beneficiary's intent to marry the Petitioner within 90 days of her admission to the United States, passport-style photographs of the Petitioner, and a properly executed Acknowledgment of Criminal Record. The Petitioner submitted some of the requested documents, but did not submit evidence of the Beneficiary's intent to marry him within 90 days of her admission into the United States. On appeal, the Petitioner submitted a statement from the Beneficiary stating that she intends to marry him within 90 days of her admission into the United States.

The Petitioner must demonstrate a *bona fide* mutual intention to marry. The record now contains statements from both the Petitioner and the Beneficiary indicating their mutual intent to marry within 90 days of the Beneficiary's admission. The Petitioner has thus established that both parties have a bona fide intention to marry and are actually willing to conclude a valid marriage in the United States within a period of 90 days after the Beneficiary's arrival.

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 met that burden. The Petitioner has established the Beneficiary's intent to marry him within 90 days of her admission and has thus overcome the basis for the denial of the petition. Accordingly, we sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of S-K-S-*, ID# 16292 (AAO May 13, 2016)