FAMILY BASED CASES ARE NOT ALWAYS EASY

Complications in your family immigration case

Irene Mugambi and Krystal Gómez



IT BETTER BE REAL

Section 204(c) of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws



THE TWIST

WHAT'S CHANGED?

MATTER OF PAK, 28 I&N DEC. 113,116-118 (BIA 2020)

PRIOR I-130 DENIED ON INSUFFICIENT EVIDENCE = DENIAL OF SUBSEQUENT

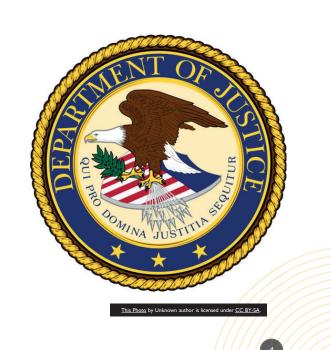


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OOPS IN IMMIGRATION COURT

Matter of Kagumbas 28 I&N Dec. 400 (BIA 2021)

- BIA ruled IJ have authority to investigate the authenticity of marriage even if I-130 was approved
 - Mentioned Matter of Bark
 - Cross serve updated bona fides



STRATEGIES

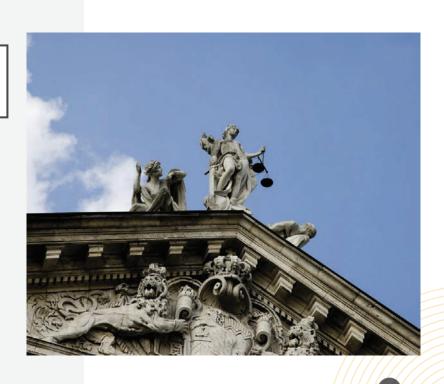
- FOIA in advance
- Argue Evidence (not substantive or probative)
 - Independent Adjudication
- Reasonable Inference v. Substantial Evidence



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AVOIDING 204(C)

- One-Sided Financial Support
 - Immigration History
- Frequent Marriage/ Divorce History
 - Excessive Use of Visa
 - Lack of Shared Social Connections
 - Short Courtship
 - Lack of Shared Assets
 - Criminal History of USC



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