Recent Developments in Representing Vulnerable Populations

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Agenda

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- Implementation of Medina-Tovar v. Zuchowski
- Bona Fide Determination policy for U visas
- Removal proceedings for U and T visa petitioners

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Medina Tovar v. Zuchowski

Medina Tovar v. Zuchowski, 982 F.3d 631 (9th Cir. 2020)

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- Is a spouse who married the U-1 after the I-918 was filed eligible for derivative U nonimmigrant (U-2) status?
  - *Compare* INA § 101(a)(15)(U)(ii) permits qualifying family members to ***accompany or follow to join*** the U principal
  - *and* 8 CFR § 214.14(f)(4) ("the relationship between the U-1 principal alien and the qualifying family member must exist at the time Form I-918 was filed…")

- Holding: Statutory language is clear that marriage to U-1 does not need to exist prior to I-918 adjudication, so regulation requiring earlier existence of relationship is invalid



USCIS Implementation

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- USCIS will apply holding to U visa and T visa cases nationwide
  - U visa policy: USCIS Policy Manual, Vol. 3, Part C, Chp. 2, B
    - Applies to all qualifying family members, not only spouses
  - T visa policy: USCIS Policy Manual, Vol. 3, Part B, Chp. 4
    - Applies to spousal and step-parent/step-child relationships



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