

FAMILY BASED CASES ARE NOT ALWAYS EASY

Complications in your family immigration case

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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



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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



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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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