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866 466 5370

April 2, 2007 DHS DOCKET #USCIS-20060044 COMMENT ON USCIS  
PROPOSED REG - FEE INCREASES

Sheldon Zelig, Esq.  
175 Maple Street  
Englewood, NJ 07631

Attn: USCIS Leaders on Proposed Fee Project

I write this as recommendation on one area in which USCIS has been unable to fulfill its duty involving Consular Return.

I am an AILA member who has discussed this Consular Return area with Michael Aytes, who I find to be the most intelligent and pragmatically gifted official in USCIS, as one who "gets it".

I advised Mr. Aytes that I have approximately 10 cases remaining, and am at the point of suing USCIS in mandamus to get resolution for my clients, which is a simple emailing of the letter each USC Petitioner awaits giving Notice of Intention to Revoke the I130 petition filed, resulting in a Consular interview where there was an alleged "finding", that the marriage was not real and based only on immigration purposes.

The Consular Returns on the cases can await this letter for 2-5 years during which time the marriage dies, or in the case of a fraud case, the perpetrators get away with the fraud on the US.

What I suggest is that there be a proposed fee that will cover the process for USCIS, on a premium basis to allow expeditious handling of the matter for the Petitioner. Required is the sending of the letter to the Petitioner, and then receiving of the evidence in support for re-affirmance of the petition and then adjudication by USCIS Service Center, and if re-affirmed, sending back to the Post for scheduling of interview.

Another suggestion in this process would be for the National Visa Center, which initially receives the consular return from the Post, to be responsible for reviewing the Consular Return for sufficiency under the law, insuring that the return is not based on conjecture or beliefs without tangible evidence of fraud. Too often the Officer gets a feeling with no objective proof, and returns the case for USCIS to take care of the matter, abdicating its role in the process. As well DoS receives \$380 + \$70 for the process of NVC to Post and interview, while USCIS initially received I130 filing fee, small amount, years ago, and on the Return receives no fee for a fact and document intensive process, no doubt costing over \$1,000, due to the complex factors playing out and the severe effect if the petition is revoked ending the relationship the husband and wife will never have. The Service Center Officer will have much to review and much to consider of what the Consular Officer reported. NVC has a Fraud Unit component which could easily take on the responsibility of examining each return, from a DoS objective view, to make sure the Fraud Prevention Unit fulfilled its duties, as well as the Consular Officers. If the refusal and return was wrong, or insufficient, the case should be returned to Post for another interview, and if grossly inadequate, to be returned for issuance of Immigrant Visa. If the NVC signs off that the refusal was good, then and only then should USCIS be involved and there should be a fee proposed to cover the cost of the complex intensive Consular Process. Clients each would pay \$1,000 if the case was fairly conducted in short time frame. The mandamus that will have to be initiated soon,

if not handled, will be more than fee to carry out USCIS duty to resolve the petition, under the INA.

There are other similar processes where USCIS does not get any fees to cover the duty, another coming to mind, is USC Petitioner incarcerated, with DAO to be sent to prison facility or conduct teleconference interview, which costs USCIS significant money to provide this type of service, and should be able to be collected by Petitioner in need of this off the chart service, with cost at least \$1,000 if not more.

Last, would be my suggestion that fees generated must, in part be paid to USCIS employees, of significance, who get it, at the national level, like Mr. Aytes, or District Directors like John Thompson in Newark, to insure they remain in USCIS and receive salary and compensation commensurate with what they do for tens of thousands impacted by their critical role leading USCIS nationally and at District Level, and than below to Unit level.

Thank you for your consideration of the above.

Sheldon Zelig  
Private Attorney  
175 Maple Street  
Englewood, NJ 07631  
201 543 1495

