

PAUL PARSONS PC

Attorney at Law
704 Rio Grande
Austin, Texas 78701

**BOARD CERTIFIED
IMMIGRATION & NATIONALITY LAW
TEXAS BOARD OF LEGAL SPECIALIZATION**

**PH: (512) 477-7887
FAX: (512) 479-6903
www.immigrate-usa.com**

August 17, 2010

Jeff Gorsky, Chief
Legal Advisory Opinion Section, Visa Office
U.S. Department of State
2201 C St #6423
Washington, DC 20520

Dear Mr. Gorsky:

I have practiced immigration law for 32 years in Austin, Texas. The purpose of this letter is to bring to your attention an issue that has been concerning me.

In the past year I have seen a disturbing trend where there seems to be a rush by Consular Officers to make an inappropriate decision on a K-1 or K-3 case. Instead of being interested in a correct adjudication, it appears that many Consular Officers (CO) quickly attempt to “administratively close” cases with a recommendation that the USCIS revoke the underlying petition. This administrative closure is done so quickly that lawyers and/or U.S. citizen petitioners are denied any meaningful opportunity to submit additional documents or to address concerns about a relationship.

I would like to provide general facts about three different clients of mine who have all received administrative closures in the past year. The purpose of this is to demonstrate my point. I am not asking you to investigate these particular cases.

Case #1: K-3 interview in Addis Ababa. Beneficiary and petitioner had an arranged marriage according to Ethiopian customs. The petitioner visits beneficiary for several months at a time each year and beneficiary lives with petitioner’s relatives. Case was administratively closed by CO after interview with beneficiary because CO believed the beneficiary didn’t know much about the petitioner, such as his cell phone number and address in Austin. It should be noted that the beneficiary speaks Amharic, and not English, and that it would be difficult to memorize an American address not knowing English. The beneficiary had substantial documentation including proof of the petitioner’s visits with her, photos of the two of them together and with

family members, and phone records showing frequent communication. I contacted ADD immediately after the interview to attempt to further document this bona fide relationship, but ADD refused to accept additional documents. ADD also refused to interview the beneficiary again and indicated that the petition had *already* been sent back to the USCIS with a recommendation that it be revoked. It took **nine months** for the USCIS to send us an Intent to Revoke, giving us a chance to respond with proof of a bona fide relationship. Immediately after the denial at the K-3 interview, I filed a new I-130/I-129F to start a new K-3 case. Now the beneficiary is pregnant and the couple is expecting their first child in January of 2011, but she is going through her pregnancy alone. We are waiting for a new interview. We have been working on this case for two years.

Case #2: K-1 interview in Guangzhou. The petitioner has been to visit the beneficiary many times and she presented substantial evidence of the relationship. The CO refused to accept her documentation for the file. CO quickly denied the K-1 and said that he was sending the petition back to the USCIS with a recommendation to revoke. There were a flurry of emails back and forth between GUZ and myself, but they remained firm on their decision. The petitioner was right there in Guangzhou with the beneficiary on the day of the interview, and the CO was so advised. It is my belief that the CO had already decided to deny the case based upon the fact that the male petitioner was 23 years older. The Consular Officer did not want to interview the USC petitioner. The Post indicated in an email that the petition had been sent back to the USCIS. I then advised my clients they could marry in China. The petitioner returned to the U.S. and we filed a K-3 petition. One month after the failed K-1 interview, the beneficiary received a notice to return for a second K-1 interview! Apparently the CO had reconsidered (or perhaps a Supervisor got involved because of my emails to GUZ), but it was too late for my clients because they were already married. She finally received a K-3 interview in GUZ many months later and the visa was granted this time. This unfair hasty denial of the K-1 caused my clients to be separated for many more months as well as costing them additional travel, legal fees, and expenses.

Case #3: K-1 interview in Ho Chi Minh City. The U.S. citizen petitioner is 47 years old and has never been married. The beneficiary is 25 years old. She brought a substantial amount of evidence of the relationship to her K-1 interview, which the CO looked at briefly, and then told her they didn't need. CO told beneficiary she should learn more about her USC fiancé, and gave her a follow-up interview a few weeks later at HCM. She appeared, ready to answer questions, but instead was made to wait for about four hours. The beneficiary was then given a one-page sheet indicating that her case had been administratively closed and that it was being returned to the USCIS with a recommendation of revocation. She was not asked any questions at her second "interview." We pleaded by fax and emails (they refuse to accept calls) for the petitioner to be interviewed and for the opportunity to submit more documentation. The petitioner had already

been to visit his fiancée in Vietnam three times. The petitioner rushed to Vietnam a few days later and appeared at the designated bi-weekly hour for U.S. citizen petitioners at the Consulate. He was told their case had already been administratively closed and had already been sent back to the USCIS. They advised him there was nothing more he could do at our U.S. Consulate.

It takes about eight to twelve months to get most K-1 (or K-3) interviews scheduled. If a U.S. citizen petitioner is willing to fly halfway across the world to be interviewed, why wouldn't a CO be willing to interview the other party about the relationship? Many times our clients have offered COs documents to prove their relationship, but the COs have refused to accept them, saying they are not needed. These important documents are therefore omitted from their case records. Supervisors do not see any of this documentation that our U.S. consular officials have rejected.

The USCIS often takes six to twelve months to notify us of a returned petition, and then usually offers only thirty days to respond. Usually the USCIS ends up returning our petitions to our U.S. consulates, thus creating one to two-year delays for the families involved.

This apparent new trend of administratively closing a case without giving the applicant as well as the U.S. citizen petitioner any meaningful opportunity to further substantiate the relationship is upsetting. As a U.S. citizen, I share the Department of State's concern about fraud and national security, but it's important to have due process and the opportunity to be heard. Each of these examples is for a bona fide fiancée or spousal relationship, and our consular officers made a hasty, incorrect decision. Would you please review your policies for K-1 and K-3 interviews? I believe you and all of our Consular Officers want to make correct decisions on these important applications and not simply race to return these petitions to the USCIS.

I hope you will investigate this disturbing pattern of rushing to administratively close K-1 and K-3 applications without accepting documentation submitted and without allowing U.S. citizen petitioners to be interviewed or at least submit additional documentation. These hasty denials of K-1 and K-3 visas are needlessly dividing families.

Respectfully,

Paul Parsons

PDP/ss