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DV-2020 Applicants Cannot Be Denied Under COVID-19 Guidance

Legal Update

09.28.2020

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

In *Gomez v. Trump*, a federal judge preliminarily stayed a presidential proclamation suspending immigrant visas as applied to diversity visa (DV)-2020 selectees and their derivative beneficiaries. The order states that the government must undertake “good-faith efforts” to expeditiously process and adjudicate DV-2020 diversity visa and derivative beneficiary applications and issue or reissue diversity and derivative beneficiary visas to eligible applicants by September 30, 2020, giving priority to the named diversity visa plaintiffs in several consolidated cases and their derivative beneficiaries.

Among other things, the court preliminarily enjoined the government from interpreting and applying COVID-19 guidance to DV-2020 selectees and their derivative beneficiaries in any way that requires embassy personnel, consular officers or administrative processing centers (such as the Kentucky Consular Center) to refuse processing, reviewing, adjudicating 2020 diversity visa applications or issuing or reissuing diversity visas on the ground that the DV-2020 selectee or derivative beneficiary does not qualify under the “emergency” or “mission critical” exceptions to the COVID-19 guidance.

The court ordered the Department of State to report, by September 25, 2020, which of the named DV-2020 plaintiffs received diversity visas, the status of processing of the named DV-2020 plaintiffs’ applications who have not yet received visas, and the number of unprocessed DV-2020 visa applications and unused diversity visas remaining for fiscal year 2020.

U.S. District Judge Amit P. Mehta signed an amended order on September 14, 2020, rejecting as “illogical” related Department of State guidance announcing that applicants subject to a 14-day quarantine rule would not receive visas if they were not exempt or had not quarantined for 14 days in another location. DOS subsequently updated its guidance on September 17 to state that consistent with the court’s order, “no DV-2020 applicants will be prevented from applying for or receiving a visa due to these regional COVID [Presidential Proclamations] if otherwise

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eligible.” The DOS guidance, however, maintains restrictions for other reasons, such as based on Presidential Proclamations related to country of origin. The guidance also warns that “due to resource constraints, limitations due to the COVID-19 pandemic, and country conditions, it will be unable to accommodate all DV applicants before September 30, 2020.”