

□ Do Annulments and Subsequent Marriages Matter?

Qualified response: Yes and No

SUVOROV v. Gonzales 428 F.3d 1156 (8th Cir.2005)

I-751 Instructions: "you entered the marriage in good faith but the marriage was later terminated due to divorce or annulment"

Strategy was to contest the annulment alleging marriage fraud. Did so and instead obtained divorce. Didn't make issue go away.

Immigration Judge Issued a 58 page opinion. No fraud but found lack of good faith. This was important because there was a subsequent relationship and marriage to a second U.S. Citizen.

Other situation: Marriage to USC where conditional residency is obtained. While still a Conditional

Cases regarding materiality of misrepresentation:

Matter of Box, 10 I & n Dec. 87 (BIA 1962). In the Matter of Box, supra, the respondent, a native and Citizen of Haiti was denied an immigrant visa after having entered the United States in 1957 using an alias. He escaped physical persecution upon returning to Haiti in 1958 and assumed a fictitious identity in which he was married; he secured a delayed birth certificate with which he obtained a passport and visa for entry to Nassau. In Nassau he took up his assumed identity, lived there for one and a half years and made application in 1960 for a visa to come to the United States. The court in Matter of Box held that his willful misrepresentation as to place and date of birth, parentage, marital status, prior residence, and use of alias were not material under Section 212 (a) (19) of the Immigration and Nationality Act because on the two facts a ground of inadmissibility would not have been revealed nor would an inquiry resulted in the proper determination of excludability.

Matter of MR, 9 I & n Dec. 602 (BIA 1962). In Matter of MR a twenty-seven year old widow native and citizen of Mexico was admitted to the United States for permanent residence where she had failed to reveal her true name, marital status and the fact that she had children when she applied for the visa. The special inquiry officer ordered that deportation proceedings were terminated and the BIA affirmed the termination of deportation proceedings. What was key in the court's determination was whether or not the true facts would lead to a relevant line of inquiry that would make the alien excludable.