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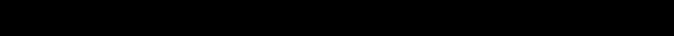


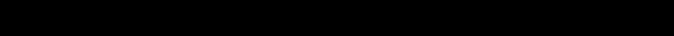
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FILE: 

Office: MIAMI

Date: JUL 20 2004

IN RE: Petitioner: 

Beneficiary: 

Petition: Petition for Special Immigrant Juvenile Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(J) of the Act, 8 U.S.C. § 1101(a)(27)(J).

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The special immigrant visa petition was denied by the District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The beneficiary is alleged to be a 19-year-old native and citizen of Haiti. The petitioner seeks classification of the beneficiary as a special immigrant juvenile pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4). The petitioner is the Department of Children and Families in Pompano Beach, Florida.

On May 19, 2003, the district director issued a Notice of Intent to Deny the Petition, stating that the petitioner failed to submit an Order of Disposition in Dependency Proceedings issued by a juvenile court. On May 21, 2003, in response to the Notice of Intent to Deny, counsel for the beneficiary submitted an Order for Disposition dated May 25, 1999.

In a decision dated November 11, 2003, the district director denied the petition, finding that the petitioner failed to submit the documentation requested on May 19, 2003.

In review, the petitioner did submit the requested documentation. Nonetheless, the petitioner failed to satisfy her burden of proof.

The Order of Dependency contains internal discrepancies. The order states that the beneficiary's natural mother, Nocilia Forelus, is deceased. The same order made the following finding of fact:

Nocilia Forelus, the natural mother of the minor child, Esline Forelus, has abandoned the child in that the mother, while being able, has made no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evidence a willful rejection of parental obligations. At best, the mother has made only marginal efforts that do not evince a settled purpose to assume all parental duties.

It is inconsistent to state that the beneficiary's mother is dead and to state that the beneficiary's mother is able to provide for the beneficiary but has not done so.

In review of the file, the AAO noted several extrinsic discrepancies. According to the record of proceeding, the beneficiary was included as the child of Senise Forelus on the latter's asylum application. The beneficiary was accorded derivative status on the asylum application. The beneficiary's date of birth was altered on the asylum application such that it is illegible. According to the juvenile court order, Senise Forelus is the beneficiary's eldest sister. It is further noted that the juvenile court order lists the name of the beneficiary's natural mother as Nocilia Forelus whereas Senise Forelus indicated that her natural mother's name is Clerica Vorticien. Similarly, the names of the beneficiary's father and Senise Forelus's father are different in the two documents. If the beneficiary and Senise Forelus were sisters, they would have at least one natural parent in common.

On appeal, the petitioner resubmits evidence previously submitted and states that she is qualified under the Florida and federal law.

The evidence on the record calls into question the beneficiary's identity, age and her eligibility for special immigrant status. First, the evidence on the record is inconsistent as to the names of the beneficiary's parents. The parents' names are significant not only to establish the beneficiary's identity but also whether she is eligible for special immigrant juvenile status. If she is residing with her biological mother in Florida, she misrepresented

the facts to the juvenile court.¹ If the beneficiary has been residing with her biological mother as indicated on the asylum application, she has not been abandoned and the juvenile court order would not be given weight. The petitioner is obligated to clarify the inconsistent and conflicting testimony by independent and objective evidence. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The petitioner has failed to establish that the beneficiary qualifies as a special immigrant juvenile pursuant to sections 203(b)(4) and 101(a)(27)(J) of the Act.

In visa petition proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.

¹ If the beneficiary claimed to be the daughter of Senise Forelus on her asylum application and she is not in fact Senise Forelus' daughter, she misrepresented a material fact to the Citizenship and Immigration Services (CIS).