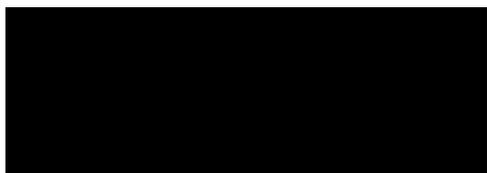


PUBLIC COPY



U.S. Citizenship
and Immigration
Services

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



F I

FEB 11 2004

FILE: [Redacted]

Office: DALLAS, TEXAS

Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the District Director, Dallas, Texas District Office and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner filed the Petition to Classify Orphan as an Immediate Relative (Form I-600) on June 28, 2002. The petitioner is a 44-year old married United States citizen. The beneficiary is 13-years old at the present time and was born on August 2, 1990 in Bangladesh.

In a Notice of Intent to Deny, the district director requested that the petitioner submit the following:

[A] document showing the surviving biological parent's irrevocable release of the child, a "No Objection Certificate" from the Home Ministry and an application for legal guardianship from the Family court.¹

The petitioner failed to respond to the Notice of Intent to Deny. On November 24, 2003, the district director denied the petition for failing to establish that the beneficiary is an *orphan* as defined in section 101(b)(1)(F) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1101(b)(1)(F) and failing to respond to the Notice of Intent to Deny.

On appeal, the petitioner asserts that the beneficiary's mother is incapable of providing proper care. The petitioner further asserts that he was awarded legal guardianship of the beneficiary and he is awaiting a "No Objection Certificate" from the Bangladesh Home Ministry. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

8 C.F.R. § 103.2(b)(13) states, in part, that:

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

8 C.F.R. § 103.2(b)(15) states, in pertinent part, that:

A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under § 103.5.

A review of the record indicates that the petitioner failed to respond to the district director's Notice of Intent to Deny. The district director correctly denied the petition due to abandonment.

ORDER: The appeal is rejected.

¹ In review, the district director should have also requested that the petitioner submit evidence that he has custody of the beneficiary in accordance with Bangladesh law.