



U.S. Citizenship
and Immigration
Services

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[Redacted]

File: [Redacted] Office: BOSTON, MASSACHUSETTS

Date: OCT 20 2004

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)

IN 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, Director
Administrative Appeals Office

CC: [Redacted]

Identifying data deleted to
prevent disclosure of unneeded
information of personal privacy

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DISCUSSION: The District Director of the U.S. Citizenship and Immigration Services (USCIS) Boston, Massachusetts, District office denied the immigrant visa petition 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 January 22, 2002. The petitioner is a 43-year-old married citizen of the United States. The beneficiary is nine years old at the present time and was born in Sodec, Port-Au-Prince, Haiti, on January 27, 1995.

The director denied the petition on January 22, 2002, based on a determination that the petitioner has two living parents and failed to establish that the beneficiary qualifies as an orphan under the Immigration and Nationality Act (the Act) because of the death or disappearance of, abandonment or desertion by, or separation or loss from her biological parents.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to Citizenship and Immigration Services [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Further, 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee CIS has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding. Though [REDACTED] the person filing the appeal indicates that he should be given notice in accordance with 5 U.S.C. 500(f), that statute refers to administrative practice by individuals who are members in good standing of the bar of the highest court of a State. [REDACTED] is not named in the Massachusetts Board of Bar Overseers registry or the New York State database of attorneys. Further, he is not on the Executive Office of Immigration Review's list of accredited representatives.

Moreover, even if the petitioner could demonstrate that [REDACTED] is, in fact, an immigration attorney, the petitioner did not sign the Form I-290B or the Form G-28. Therefore, [REDACTED] is not otherwise authorized to file an appeal on behalf of the petitioner.

Accordingly, the appeal has not been properly filed, and must be rejected, pursuant to the above regulations.

ORDER: The appeal is rejected.