

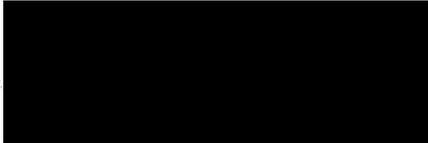
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U.S. Citizenship
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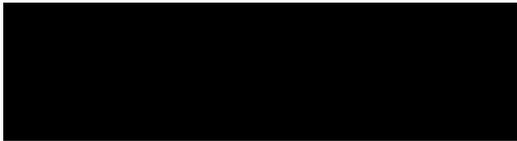
Office: BALTIMORE, MARYLAND Date: MAR 07 2005

IN RE: Petitioner:
Beneficiary:



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:



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 District Director of the Citizenship and Immigration Services (CIS) Baltimore, Maryland, district office denied the immigrant visa petition. The petitioner appealed the district director's decision to the Administrative Appeals Office (AAO). On May 2, 2002, the AAO remanded the case to the district director for further action. The district director issued a notice of intent to deny the petition. After considering the petitioner's rebuttal, the district director denied the petition. The petitioner filed another appeal to the AAO. The AAO dismissed the appeal. The petitioner subsequently filed suit in federal district court. The district court remanded the case to the AAO. The AAO is remanding the case to the district director.

On October 4, 1999, the petitioner filed a petition to classify orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F)(i). The petitioner is a married naturalized citizen of the United States.

The petitioner claimed the beneficiary, [REDACTED] is an orphan as defined in section 101(b)(1)(F) of the Act, 8 U.S.C. § 1101(b)(1)(F). To support this claim, the petitioner submitted a birth certificate of the beneficiary, indicating he was born to two parents, [REDACTED] and [REDACTED]. The petitioner submitted death certificates for the beneficiary's biological mother and father. The petitioner established that the beneficiary is an orphan.

The petitioner initially filed an orphan petition as a divorced single individual. According to the evidence on the record, the petitioner was married at the time of the filing of the petition. The petitioner indicated that he did not think that Citizenship and Immigration Services (CIS) would recognize his customary marriage to his current wife, [REDACTED]. CIS recognizes Ghanaian customary marriages. The petitioner subsequently remarried [REDACTED] in the United States and amended his petition to include his wife.

The petitioner initially submitted an adoption order dated December 16, 1999 from the Superior High Court of Judicature in the High Court of Justice, Accra, Ghana, ordering that the beneficiary be adopted by the petitioner alone. The petitioner subsequently submitted to CIS an adoption decree granting custody of the beneficiary to the petitioner and his wife.

The petitioner has overcome the director's objections to approving the petition, however the case must be remanded to the director for further action before the petition may be adjudicated.

The regulation at 8 C.F.R. § 204.3(c)(3) requires the fingerprinting of the prospective adoptive parents and any adult members of the petitioner's household. It does not appear that the petitioner's spouse was fingerprinted. Although the petitioner was fingerprinted in 1999, the FBI response on his fingerprints has expired. FBI fingerprint responses are valid for a period of 15 months.¹ Accordingly, the case will be remanded to the district director to schedule the petitioner and his wife for fingerprinting.

The case is remanded to the district director to take action as discussed above.

ORDER: The case is remanded to the district director for further action consistent with this decision.

¹ See attached Memorandum dated February 14, 2003 from Johnny Williams, Exec. Assoc. Commissioner, Field Operations [HQADN 70/8.3], *Fingerprint Check Integrity When Adjudicating Orphan Petitions*.