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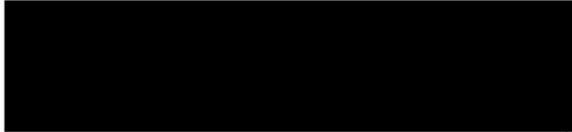
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U.S. Citizenship
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FILE: [REDACTED]

OFFICE: SAN ANTONIO, TX

DATE: DEC 27 2007

IN RE: Applicant: [REDACTED]
Beneficiary: [REDACTED]

APPLICATION: Application for Advance Processing of Orphan Petition Pursuant to 8 C.F.R. 204.3(c)

ON BEHALF OF APPLICANT:



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, Chief
Administrative Appeals Office

DISCUSSION: The Field Office Director, San Antonio, Texas denied the Form, I-600A, Application for Advance Processing of an Orphan Petition (I-600A application). The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed and the application will be denied.

The applicant filed the present I-600A application on September 11, 2006. The applicant is a fifty-seven year old, single male citizen of the United States who seeks to adopt two orphan boys from Ukraine.

The record reflects that the applicant filed a previous I-600A application on March 17, 2004, seeking to adopt three orphan boys from Russia. The previous I-600A application was initially approved by the district director, San Antonio, Texas. The matter was certified to the AAO, however, based on serious concerns identified by the U.S. Embassy in Moscow relating to the petitioner's ability to provide proper care to an orphan. On certification, the AAO found that the Embassy's concerns were valid and substantiated by the record, and the applicant's previous I-600A application approval was revoked on February 8, 2006. The applicant filed the present I-600A application on September 11, 2006. The present I-600A application was denied by the field office director on April 27, 2007, based on a finding that the evidence submitted did not differ materially from evidence submitted in support of his previous I-600A application, and based on a finding that the applicant had failed to demonstrate that he would be able to provide proper care to an orphan child. The applicant appealed the denial of his second I-600A application on May 30, 2007.

On appeal the applicant asserts, through counsel, that he has a sincere desire to adopt two orphan boys and to raise a family. The applicant asserts that the evidence in the record establishes he is aware of the challenges that adopting an orphan from another country presents. The applicant asserts further that home study report, psychological evaluation, and reference letter evidence demonstrate he would be able to provide proper care to two orphan children.

Section 101(b)(1)(F)(i) of the Act, 8 U.S.C. 1101(b)(1)(F)(i) provides that U.S. Citizenship and Immigration Services (CIS) may not approve an I-600A application unless satisfied that the applicant will provide proper parental care to an adopted orphan.

[P]etitioning for an orphan involves two distinct determinations. The first determination concerns the advanced processing application which focuses on the ability of the prospective adoptive parents to provide a proper home environment and on their suitability as parents. This determination, based primarily on a home study and fingerprint checks, is essential for the protection of the orphan. The second determination concerns the orphan petition which focuses on whether the child is an orphan under section 101(b)(1)(F) of the Act.
8 C.F.R. § 204.3(a)(2).

To support his claim that he will be able to provide proper care to an orphan child, the applicant submitted a favorable August 2006, Family Builders (FB) home study report and letter, a June 2006, psychological evaluation by Dr. [REDACTED] and favorable reference letters from friends.

Although not submitted with his current I-600A application, the record of proceeding in the applicant's case also includes a May 2004 Lutheran Social Services (LSS) home study report, a December 2004, FB home study report, and a May 2005, psychological evaluation by Dr. [REDACTED]. Because of their relevance to the present matter, the AAO will also address the finding made in the previous home study reports and psychological evaluations.

The LSS home study report declined to approve the applicant as an adoptive parent on May 27, 2004. Specifically, the LSS home study stated that the applicant desires to adopt three boys from Russia between the ages of seven and twelve, and that although the applicant would accept whatever number of children is deemed appropriate by LSS, he adamantly believes three sons would suit him best and he would be disappointed if he was unable to adopt three children at one time. The LSS home study preparer states that the applicant is open to children with minor medical problems on an individual basis, but that "he would have difficulty managing a child with psychotic features, persistent out-of-control behaviors or temper tantrums, and severe attention-deficit/hyperactivity." When the LSS home study preparer explained to the applicant that there are no guarantees related to the type of child that would be placed into his home, the applicant indicated he had faith that the LSS matching process would give him the type of child he could most effectively parent, and that he firmly believed that through the international adoption process he would be able to adopt three boys who would suit his temperament and ability to parent.

The LSS home study describes that the applicant fostered an eight-year-old boy for one and a half years between 1981-1982, and that the applicant returned the boy to the Texas Department of Protective and Regulatory Services (DPRS) due to the boy's out-of control behaviors, including temper tantrums, loss of control, aggressive and reactive behaviors and occasionally forgetting to go to the bathroom. The applicant described the parenting experience as rewarding and highly stressful. The LSS home study describes further that, while preparing for the adoptive placement of another child in September 1983, the applicant had a panic attack, with symptoms that included rapid speech, some psychotic talk, and an inability to sleep. The applicant voluntarily placed himself into a psychiatric unit at that time, and he was discharged a week later and received follow-up medication and therapy. The applicant described going "beserk" at work three months later. An ambulance was called and he was hospitalized for one-two weeks. The applicant's treatment included stress management techniques and relaxation therapy as well as occasional anti-anxiety medication. The applicant subsequently requested that DPRS not place another child with him during his time of emotional instability. The LSS home study report notes that after his mental health issues surfaced in 1983, the applicant has been repeatedly denied as an adoptive applicant by several different adoption agencies. When asked about the adoption denials, the applicant stated he believed they were based on his previous mental health problems, his status as a single male, and the perception that he lacks empathy.

The LSS home study describes that in August of 2003, the LSS Foster Care and Adoption Department approved the applicant for the foster care and/or domestic adoption of one male child between the ages of six and twelve, with minimal behavioral issues. The LSS home study report noted, however, that the applicant's approval was accompanied by specific recommendations that: 1) the applicant receive consistent and frequent assistance from an experienced LSS caseworker; 2) in addition to the usual monthly supervision offered after placement, the applicant be given extra support during the adjustment period and be required to participate in more frequent visits with the caseworker; 3) the applicant be required to keep a daily log of interactions between himself and the child for six months in order for LSS to review the applicant's responses to situations that present themselves; and 4) the applicant continue to be offered additional training to assist with the development and growth of his parenting skills and to be paired with another parent who would act as a mentor and assist him with every day skill building.

Based on discussions with the applicant, the LSS home study preparer states that, in general, the applicant feels stressed when people do not follow through with their intentions, and when friends and family are not able to offer support or help when needed. When asked how he expresses his anger, the applicant stated that

he tends to yell, and that he manages stress by spending time alone, lying down on his bed, listening to music or rocking in his rocking chair.

The LSS home study states that since his emotional breakdown twenty years ago, the applicant has consistently received counseling, and that for the past few years he has received counseling services through a licensed professional counselor, [REDACTED] who wrote a letter recommending the applicant as an adoptive parent. The LSS home study preparer notes that the applicant has been diagnosed with a history of anxiety and a mild form of Aspergers Syndrome, which includes concrete intellectual processing with poor social interaction skills.

The LSS home study preparer describes concerns that the applicant was unable to consider the fact that he might find himself overwhelmed with the multiple responsibilities and needs of three children. The preparer indicates that in his determination to pursue the dream of adopting three children, the applicant appeared to be denying any and all possible complications and hardships. In addition, the LSS home study preparer noted concern that the applicant's parenting philosophies and techniques appear to assume that the adopted orphan children would be cooperative and able to control and manage their emotions and behaviors in most situations, most of the time. The AAO notes the relevance of these particular concerns in light of a May 25, 2007, letter submitted on appeal by the applicant. In the letter, the applicant states his belief that the LSS home study preparer over-stressed his desire to adopt three brothers. The applicant indicates that at the time of his LSS interview, he believed three boys was the ideal maximum sibling group he could handle. He states, however that after vacationing for two weeks with a friend and his friend's three sons, he now realizes that three sons "are a real handful" and that three sons "may be too many to have all at once." The applicant indicates that his current home study is for two children, and that he now believes this is a more realistic number.

The LSS home study preparer additionally noted her concern that the applicant's referenced awkward social interaction skills, lack of expressiveness and highly intellectualized and concrete thinking characteristics would impact the bonding and daily interactions that take place between the applicant and an adopted child, particularly for a child coming through the international adoption program that is already at high risk for developing attachment difficulties due to the institutionalization, neglect and possible abuse.

The LSS home study preparer concludes that the "applicant has made tremendous gains within the past twenty years and has learned how to cope with situations involving strong feelings. However, it is unclear whether these coping strategies would be effective when parenting one, two, or three children with histories of neglect and possible abuse that could lead to challenging behaviors such as emotional reactivity, out-of-control behavior, and hyperactivity/attention-deficit characteristics."

The record contains a second international adoption Home Study prepared by Family Builders (FB), and completed on December 15, 2004. The December 2004, FB home study approves the applicant as an adoptive parent for two male children between the ages of seven and eleven.

The December 2004, FB home study discusses the applicant's 1981 foster care experience, and the FB home study clarifies that the applicant's September 1983 panic attack and admission into a psychiatric hospital followed a three-day pre-placement visit at his home, of a twelve-year-old child approved for adoption placement with the applicant. The FB home study states that Dr. [REDACTED] of [REDACTED] and Associates, Comprehensive Mental Health Services wrote on October 18, 1984, that psychological tests given to the applicant failed to show any significant psychopathology which would interfere with the applicant's ability to

parent, and that the applicant should be considered as a candidate for adoption of a child.

In the December 2004, FB home study report, the preparer indicates that the applicant has worked through many of the issues that led him to place a foster child in his care into a different home, and that led him to be mentally unable to handle the stress of adopting in 1983, and the FB home study preparer states that the applicant now believes he is better prepared to adopt a child. The FB home study preparer notes that the applicant has been diagnosed with Asperger's Disorder, and she states that "those with Asperger's Disorder are often described as having impairment with two-sided social interaction and non-verbal communication and may appear clumsy in their gross motor functioning." The FB home study preparer states, however, that although she did find the applicant to be a little linear in thought, overall the applicant appeared to be open-minded, and he made jokes, caught inferences and was polite and considerate. The FB home study preparer states further that the applicant was able to handle the stress of college, and a Ph.D. program, and that the applicant handles the daily stress of managing students and his classroom.

The FB home study preparer states that the applicant's therapist for the last four years (Mr. [REDACTED]) has counseled the applicant on stress management and his desire to be a parent, and that Mr. [REDACTED] recommends that the applicant be considered as an adoptive parent because, "he is viable both as a person with the financial resources to manage it, but more importantly, I find him warm and conversation with him meaningful. He seems to have a good knowledge of what children need emotionally, and his ability to learn is keen." The FB home study preparer additionally states that reference letters from friends and family recommended the applicant as an adoptive parent limited their concerns to his adopting two young children or adopting children with severe limitations. The FB home study preparer states that the applicant does not plan to adopt special needs children or children who are younger than school age, and that overall, his references support the applicant's adoption of one to two children. The FB home study preparer concludes that in his opinion, although there are concerns, the applicant is a "stable, high-functioning individual, who appears to be emotionally, physically, and mentally capable of being an adoptive parent."

The record contains a May 7, 2005, Psychological Evaluation by [REDACTED] Jr., Ph.D., Clinical and Forensic Psychologist. The evaluation states, "test performances do not reflect any significant or profound elements of psychopathology, which would incapacitate [the applicant] or preclude him from functioning as an adoptive parent." The AAO notes that the evaluation provides an incomplete follow up summary sentence stating that, "test performances reveal him to be somewhat". The evaluation additionally states that the applicant currently has "mild to moderate features of anxiety and tension related to the current adoption process" and that he "appears to attempt to manage these and other feelings of distress, in part, through mechanisms of denial, intellectualization, suppression and displacement." The applicant's evaluation concludes, in pertinent part that, "there was no significant indication from any of the data analyzed individually or the data reviewed collectively and comprehensively that he would not be an appropriate candidate for this adoptive program," that "historically, he has been a foster parent and generally seemed to perform his parenting duties well," and that his "anxiety reaction many years ago, without reoccurrence since that time should not play any credible or weighted value in his assessment as a candidate."

On present appeal, the applicant submits a new favorable home study report by Family Builders, dated August 31, 2006. The August 2006, FB home study report contains similar information and a similar analysis to that presented in its December 2004, home study report.

The applicant additionally submits a June 26, 2006, Psychological Assessment, prepared by [REDACTED] W. [REDACTED] Ph.D. stating that the applicant would be a suitable adoptive parent for an adopted orphan child. The June 2006, psychological evaluation states that the applicant had:

[T]wo previous comprehensive psychological evaluations; one was conducted in 1984 and the other in 2005. Both of these evaluations failed to find any significant pathology and both supported [the applicant] as being psychologically fit as a potential adoptive parent. In addition, [the applicant's] psychotherapist, Mr. [REDACTED], has also endorsed [the applicant's] fitness as a potential adoptive parent. Mr. [REDACTED]'s work with [the applicant] has focused on mild transient anxiety in response to normal life stresses.

The AAO notes that the current record of proceedings does not contain any information or evidence relating to a 1984 psychological evaluation for the applicant.

The June 2006 psychological evaluation states further that the applicant:

[S]uccessfully served as a foster parent to an eight year old boy in 1980-81. His foster child's need for additional structure led to the child's transfer to a residential treatment facility. In 1983 [the applicant] had a brief psychiatric hospitalization following a three-day pre-placement visit from a potential adoptive child. That adoption was then deferred. [The applicant] had a similar short hospitalization a few months later. Both hospitalizations occurred to treat stress and anxiety. These hospitalizations occurred during an era of aggressive marketing of psychiatric hospitalization for conditions that today are easily treated on an outpatient basis. . . .

The psychological evaluation provides no other details or information relating to the applicant's previous treatment and hospitalizations, or their causes.

The June 2006 psychological evaluation indicates that the applicant does not self-report symptoms of depression, and that MMPI-II clinical test results reflect that the applicant "has no psychological disturbance; that he effectively manages the stresses of daily life, that he is a sociable person who likes to project a positive attitude about life, and that he tends to not be interested in the expression or discussion of feelings." The psychological evaluation states further that MCMI-III clinical test results reflect the applicant's effort to present a socially acceptable front that was valid according to the test's validity indicators. The test reflected further that the applicant tended to have a need for gaining approval and admiration from others, and that he prefers to be seen as composed, virtuous and conventional in his behavior. The test reflected the applicant tended towards being uncomfortable in showing a lot of emotion, that he avoids the expression of deep feelings, and that he tends to be most comfortable with his analytical or intellectual side. It was noted that the applicant has been working in his counseling to learn to be more expressive of feelings and empathy. The test concluded that there was no finding of any serious psychological conflicts, and no support for a clinical diagnosis.

The AAO finds that the evidence in the record presents serious concerns regarding the applicant's ability to provide proper care to an orphan. The concerns raised in the December 2004, LSS home study report relating to the applicant's ability to provide proper parental care to an orphan child are documented, well reasoned, valid and material. The 2004 psychological evaluation, doctor and reference letter evidence submitted by the applicant in his initial I-600A application did not overcome the serious concerns raised in the applicant's case, as discussed in the AAO's February 8, 2006, decision relating to the applicant's initial [REDACTED] application.

The AAO finds that the evidence submitted by the applicant on present appeal, also fail to overcome the serious concerns presented regarding the applicant's ability to provide proper care to an applicant.

The AAO notes that the August 2006 FB home study report differs little from the discussion set forth in its December 2004 FB home study report, except that the August 2006 home study report provides less discussion, or further minimizes the applicant's emotional state during foster-care and adoption-placement situations in the 1980s. The August 2006 FB home study report also provides less discussion or significantly minimizes the treatment the applicant required, and the situations leading to the applicant's past emotional breakdowns.

The AAO notes that the June 2006 psychological evaluation submitted by the applicant on appeal, states that the applicant's 1984 and 2005 psychological evaluations both support the applicant as being psychologically fit as a potential adoptive parent. The record contains no evidence of the 1984 psychological report or its findings, however, and no other mention is made by Dr. [REDACTED] regarding serious anxiety attack occurrences, or clinical treatments obtained in 1984. Furthermore, the AAO previously found that the applicant's 2005 psychological report did not sufficiently address or overcome concerns relating to the applicant's adoption-placement related anxiety, hospitalization and treatment in the 1980s. In addition, the AAO notes that the 2006 clinical test results contained in the June 2006 psychological evaluation are similar to previous clinical test results contained in the record which reflect that the applicant is uncomfortable with expression or discussion of feelings and emotions.

The AAO notes that the 2006 psychological evaluation indicates that the applicant's psychotherapy with Mr. [REDACTED] has focused on mild transient anxiety in response to normal life stresses, which is different from the stress related to adoption and child-rearing of two young orphan boys. The AAO notes further that the 2006 psychological evaluation appears to summarily dismiss the applicant's previous hospitalizations and clinical treatment as the result of past aggressive marketing of psychiatric hospitalization for conditions that today are easily treated on an outpatient basis. The 2006 psychological evaluation offers no other discussion or information regarding the applicant's diagnoses during the period in which he was hospitalized and treated, and the evaluation fails to discuss whether or not the issues that led to the applicant's adoption-placement related, emotional breakdowns in the 1980s were resolved.

Upon careful review of all the evidence contained in the record, the AAO finds that serious concerns exist relating to the applicant's ability to provide proper care to an orphan. The AAO finds that the evidence presented by the applicant fails to overcome those concerns. Accordingly, the AAO finds that the applicant has failed to establish that he would be able to provide proper parental care to an adopted orphan as set forth in section 101(b)(1)(F)(i) of the Act and 8 C.F.R. § 204.3(a)(2).

In visa petition proceedings, the burden of proof rests solely with the applicant. *See* section 291 of the Act, 8 U.S.C. 1361. The applicant has failed to meet his burden of proof in the present matter. The appeal will therefore be dismissed and the application will be denied.

ORDER: The appeal will be dismissed. The application will be denied.