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U.S. Citizenship  
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Services

FI  
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FILE:

Office: HONOLULU, HI Date:

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)

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Honolulu, denied the Petition to Classify Orphan as an Immediate Relative. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, [REDACTED], filed a Petition to Classify Orphan as an Immediate Relative (I-600 Petition) on April 21, 2004. The District Director concluded that the beneficiary did not meet the requirements of the definition of "orphan" under section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(b)(1)(F). The petition was denied accordingly. *District Director Decision*, July 6, 2006.

The petitioner is a 37-year-old U.S. citizen. The beneficiary is an eight-year-old citizen of Sierra Leone, born in Freetown, Sierra Leone in 1998, and currently residing there. The petitioner submitted an I-600 Petition on behalf of the beneficiary on April 21, 2004. A field investigation requested by the American Embassy in Dakar, Senegal, and conducted by the U.S. Embassy in Freetown, Sierra Leone, revealed that the adoption decree submitted in support of the I-600 Petition was fraudulent and that, therefore, the petitioner did not have legal custody of the beneficiary under the laws of Sierra Leone and was not authorized to remove the child from Sierra Leone. The petitioner was accordingly given Notice of Intent to Deny the I-600 Petition, informing her that the Master and Registrar of the High Court of Sierra Leone had informed the U.S. Embassy on May 4, 2004, that the adoption decree, supposedly issued by that Court, was "counterfeit or fake." *District Director's Notice of Intent to Deny*, February 6, 2006. In response, the petitioner submitted a new adoption decree to the American Embassy in Dakar for investigation. As no further information was submitted to rebut the basis of the Intent to Deny, and the petition was denied on that basis. *District Director Decision, supra*.

On appeal, the petitioner asserted that the pending field investigation by the U.S. Consulate in Freetown was being finalized and would establish that the beneficiary is an orphan. *Notice of Appeal to the Administrative Appeals Office (AAO)(Form I-290B)*, dated August 3, 2006. The petitioner later submitted a letter to serve as a brief in support of her appeal, which included the following evidence:

An email message, dated August 17, 2006, from the Consul General of the American Embassy, Dakar, to the petitioner. The message stated that the field investigation conducted by the U.S. Embassy in Freetown confirmed that the beneficiary's birth mother was still alive and recently made attempts to regain physical custody of the beneficiary, and that therefore, the beneficiary was not considered an orphan under the Act.

Affidavits, dated August 24, 2006, from Executive Director and the Country Director of All As One, "a registered non-governmental organization working in Sierra Leone taking care of orphaned and abandoned children," stating that the beneficiary was placed in the care of All As One on April 6, 2002, after the death of his parents; that no one has come to All As One to make any claim to the beneficiary; that claims to the contrary are false; and that on February 26, 2004, the petitioner adopted the beneficiary through the High Court of Sierra Leone.

An Initial Intake form for the beneficiary at All As One, dated April 6, 2002, stating that he had been brought to All As One on that date by his maternal grandmother, who reported that his mother, [REDACTED] and his father, [REDACTED] were both deceased, and that the grandmother requested that the child be adopted as she could not adequately care for him.

Also included in the record are the following:

The beneficiary's birth certificate, listing his mother as [REDACTED] and his father as [REDACTED]

The death certificates of [REDACTED] and [REDACTED]

First Adoption Court Order, submitted before May 2004 in support of the I-600 Petition. It is dated March 3, 2004, and refers to "The Matter of an Application for the Adoption of [REDACTED] (a Juvenile) by [REDACTED]" based on "Originating Summons dated the 17<sup>th</sup> day of February 2004 and the affidavits in support thereof and exhibits attached thereto."

Second Adoption Court Order, submitted in February, 2006. It is dated February 26, 2004, and has stamps and notations indicating that a payment had been received by the Judicial Sub-Treasury, Freetown, on March 25, 2004, and that the document had been registered in August 2005. Otherwise, the contents of the first and second Adoption Orders are identical.

The entire record was reviewed in coming to this decision.

Section 101(b)(1)(F) of the Act defines "orphan" in pertinent part as:

[A] child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; **who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence (emphasis added).**

Title 8, U.S. Code of Federal Regulations (8 C.F.R.) § 204.3(d) states in pertinent part:

(1) [T]he following supporting documentation [T] must accompany an orphan petition filed after approval of the advanced processing application:

....

(iii) Evidence that the child is an orphan as appropriate to the case:

(A) Evidence that the orphan has been abandoned or deserted by, separated or lost from both parents, or that both parents have disappeared as those terms are defined in paragraph (b) of this section; or

**(B) The death certificate(s) of the orphan's parent(s), if applicable . . . and**

**(iv) Evidence of adoption abroad or that the prospective adoptive parents have, or a person or entity working on their behalf has custody of the orphan for emigration and adoption in accordance with the laws of the foreign-sending country (emphasis added).**

U.S. Department of State guidance on adoptions of orphans from Sierra Leone notes that the U.S. Embassy in Dakar, Senegal issues immigrant visas for Sierra Leonean citizens, including adopted orphans, and that due to a high rate of document and adoption fraud in Sierra Leone, the U.S. Embassy in Dakar carefully scrutinizes all immigrant visa cases and will almost always request that the U.S. Embassy in Freetown, Sierra Leone conduct a field investigation to confirm a child's orphan status. <http://travel.state.gov/family/adoption/>, last updated February 2006. The U.S. Embassy in Dakar will return all approved immigrant visa petitions (I-600s) to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) if, after an investigation, the relevant adoption court orders are determined to be fraudulent and/or the prospective adopted children are determined not to be orphans under section 101(b)(1)(F) of the Act. *Id.*

In this case, as a result of the field investigation described above, the first Adoption Court Order submitted by the petitioner, *supra*, was found to be fraudulent. This determination was based on the response of the High Court Master and Registrar, whose name and alleged signature appeared on the Adoption Court Order; she reviewed the Order at the request of the U.S. Embassy, Freetown, and responded that the document was "counterfeit or fake." Although the petitioner later submitted another Adoption Court Order (the second Adoption Court Order, *supra*), there was no attempt to explain why a fake document had been submitted earlier or what had been done to ensure that the adoption was indeed carried out and duly recognized under the law of Sierra Leone. Affidavits by officers of All In One, *supra*, state simply that on February 26, 2004 the petitioner adopted the beneficiary through the High Court of Sierra Leone, also failing to address the fact that in May 2004 the High Court Master and Registrar stated that an identical Adoption Court Order dated March 3, 2004 was counterfeit. Although a second field investigation did not address whether the second Adoption Court Order was valid, there is no evidence in the record to rebut the original finding or to show that the petitioner has legal custody of the beneficiary that would allow him to be removed from Sierra Leone.

A second field investigation did, however, raise additional concerns regarding the beneficiary's status as an orphan. See email message from the Consul General of the American Embassy, Dakar, *supra*. It confirmed that the beneficiary's birth mother, [REDACTED] is still alive and recently made attempts to regain physical custody of the beneficiary, and also confirmed that his alleged birth father, [REDACTED] is also alive. These findings, and the fact that the name of the beneficiary's birth father appears as "[REDACTED]" on the beneficiary's birth certificate, and as "[REDACTED]" on the birth father's death certificate, cast further doubt on the evidence submitted in this case.

These inconsistencies along with the conclusions of the investigations into this case raise serious doubts regarding the validity of the adoption. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The petitioner asserts on appeal that the information gathered during the second field investigation "is believed to be false" (Letter in Support of Appeal, *supra*), and submits affidavits from officials at All As One, where the beneficiary resides, to support her assertion. These

affidavits do not however explain or reconcile the multiple inconsistencies that have been brought to light in this case.

The adoption of the beneficiary is deemed to be not valid. Evidence in the record does not support a conclusion that the birth parents of the child have died or that the petitioner has custody of the child for emigration and adoption in accordance with the laws of Sierra Leone. The AAO therefore finds that the beneficiary does not meet the definition of “orphan” under section 101(b)(1)(F) 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. The petitioner has not met her burden in the present matter. The appeal will therefore be dismissed

**ORDER:** The appeal is dismissed.