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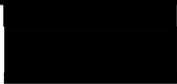
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NORFOLK, VA

Date:

APR 11 2008

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 Field Office Director, Norfolk, Virginia, revoked the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner's Form I-600, "Petition to Classify Orphan as an Immediate Relative," filed on May 27, 2005, was approved on February 15, 2007. An investigation by the U.S. Consular Section in Islamabad, Pakistan, revealed information that was not available to U.S. Citizenship and Immigration Services (CIS) at the time the I-600 petition was approved. The consular section recommended revocation of the Form I-600 upon noting that the beneficiary did not appear to fall within the definition of "orphan" found in section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F).

Based on the information obtained from the consular investigation, the field office director issued a "Notice of Intent to Revoke" approval of the petitioner's Form I-600 on October 24, 2007. The petitioner responded to the field office director's notice. On November 26, 2007, the field office director revoked the Form I-600, finding that the petitioner had failed to overcome the concerns raised in the Notice of Intent to Revoke. This appeal followed.

On appeal, the petitioner claims that the beneficiary is his adopted child and that the petition should be granted so "she will have freedom and be raised in a safe environment." *See* Form I-290B, Notice of Appeal to the AAO. The appeal is accompanied by a copy of the beneficiary's mother's death certificate and her natural father's declaration.

Section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(b)(1)(F)(i), 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

The petitioner is a 42-year old married U.S. citizen. The beneficiary was born in Pakistan on February 25, 1990. The record contains, in relevant part, copies of the beneficiary's birth certificate, the petitioner's U.S. passport and his wife's Certificate of Naturalization, a home study, the petitioner's marriage certificate, the petitioner's Declaration of Adoption, the beneficiary's father's Declaration For Adoption, and the beneficiary's mother's death certificate.

The AAO finds that the record does not contain sufficient evidence to establish that the beneficiary has been legally adopted. Information in the record indicates that adoption is not legally available in

Pakistan. The Declarations executed by the beneficiary's father and the petitioner on December 17, 2004 do not constitute an adoption for purposes of U.S. immigration law. The AAO must therefore conclude that the beneficiary has not "been adopted abroad" as required by the Act.

The AAO further finds that the petitioner has failed to address the concerns raised by the consular section and the field office director regarding the beneficiary's father's abandonment and inability to provide for her support. **The record indicates that the beneficiary is already 18 years old.** The beneficiary has been taken care of in Pakistan by relatives, and her natural father appears to have had contact with her until as recently as 2004 when he executed his Declaration for Adoption.

The AAO therefore finds that the petitioner has failed to establish the beneficiary "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."

The Act provides that, 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 AAO finds that the petitioner has not met his burden to establish that the beneficiary meets the definition of "orphan" as set forth in section 101(b)(1)(F) of the Act. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.