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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

C

[Redacted]

FILE:

[Redacted]

Office: MIAMI

Date:

NOV 23 2005

IN RE: Petitioner:
Beneficiary:

[Redacted]

PETITION: Petition for Special Immigrant Juvenile Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(J) of the Act, 8 U.S.C. § 1101(a)(27)(J)

ON BEHALF OF PETITIONER:

[Redacted]

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, Miami, denied the special immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The beneficiary is a seventeen-year-old native and citizen of Brazil who seeks classification as a special immigrant juvenile pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4).

The district director issued a decision on January 21, 2005, denying the visa petition citing the fact that the beneficiary had misrepresented the situation regarding her alleged abandonment by her parents in statements to the state juvenile court and to Citizenship and Immigration Services (CIS). The district director noted that the applicant's false information had been detailed in a Notice of Intent to Deny (NOID), issued to the applicant on October 8, 2004. Specifically, the NOID was issued following an interview of the applicant on May 6, 2004, in connection with her visa petition. At that interview the applicant was questioned regarding her contact, if any, with her biological parents, whom it was alleged, had abandoned her and with whom she had allegedly not had any contact for at least four years. See *Adjudicatory Order of the Circuit Court for the Eleventh Judicial Circuit Court in and for Dade County, Florida Juvenile Family Division*, dated January 21, 2003. During the course of the interview, the applicant admitted to speaking to her parents every month and to having remained in contact with them ever since her departure from Brazil. See *Notice of Intent to Deny*, dated October 8, 2004.

Counsel's response to the NOID consisted of a submission, unaccompanied by a letter or other explanatory filing, of a court order entitled, *Judicial Review and Order of Judicial Review*, dated November 4, 2004. This order, which followed a review conducted in connection with a permanency hearing indicated that after reviewing the submission of counsel, including the "Judicial Review Social Study" and considering the "testimony and argument" presented, the court determined that the beneficiary should not be returned to her parents and should, instead, be placed in the custody of the Mr. and Mrs. [REDACTED]

In her brief statement in support of the appeal, counsel disputes the district director's finding stating simply that the beneficiary had not misrepresented the facts in connection with her relationship with her parents, and stating that she had only received a phone call from her mother only after the Juvenile Court ruled that she had been abandoned. Nothing further, including a sworn statement or other explanation from the beneficiary has been offered. Counsel has simply asserts that the denial was incorrect because the beneficiary made no misrepresentations. This is an insufficient basis for an appeal of the director's decision.

Counsel has made a general assertion and has not adequately explained the discrepancies in the record. The explanation that the beneficiary has had no contact with her parents, but unexpectedly received a call from her mother shortly after her dependency order was signed is completely unsupported. The district director's findings, made in connection with a formal interview on the application are determined to be reliable unless show to be in error. No evidence from the beneficiary or any of her family members has been submitted. The submission of the November 4, 2004, juvenile court order, issued after CIS's issuance of the NOID, is insufficient. It simply establishes that certain representations were made to the court and as a result, it issued an order in connection with its review of the case that maintained the beneficiary in the care and custody of the caretaker family. While it appears that the same misrepresentations regarding the beneficiary's contact with her family that have been made to CIS have likely also been made to the juvenile court, the court order is

not a persuasive or even adequate response to the NOID as it does not address the misrepresentations identified by CIS. While counsel asserts that no misrepresentations were made, the assertions of counsel are not evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel has set forth an insufficient basis for an appeal of the district director's decision. Counsel simply asserts that no misrepresentations were made and asks CIS to accept her assertions. This is insufficient and warrants a dismissal of the appeal.

ORDER: The appeal is dismissed and the district director's decision is affirmed.