



U.S. Citizenship
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FILE:



Office: HARTFORD, CONNECTICUT
(consolidated)

Date:

AUG 03 2009

IN RE:



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), as amended by section 235(d) of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, 122 Stat. 5044 (2008)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Hartford, Connecticut, denied the special immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a 44-year-old native and citizen of Haiti who filed an application for classification as a special immigrant juvenile (SIJ) pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4).

The Field Office Director issued a decision on February 18, 2009, denying the petition for SIJ classification finding that the petitioner was not eligible for the benefit. *See Decision of the Field Office Director*. On appeal, the petitioner states that she filed the petition for SIJ classification by mistake. *See Form I-290B, Notice of Appeal*, dated Feb. 20, 2009.

Section 203(b)(4) of the Act allocates immigrant visas to qualified special immigrant juveniles as described in section 101(a)(27)(J) of the Act, 8 U.S.C. § 1101(a)(27)(J). On December 23, 2008, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), was enacted. *See* Pub. L. No. 110-457, 122 Stat. 5044 (2008). Section 235(d) of the TVPRA amended the eligibility requirements for SIJ classification at section 101(a)(27)(J) of the Act, and accompanying adjustment of status eligibility requirements at section 245(h) of the Act, 8 U.S.C. § 1255(h). *Id.*; *see also* Memo. from Donald Neufeld, Acting Assoc. Dir., U.S. Citizenship and Immig. Servs., et al., to Field Leadership, *Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions* (Mar. 24, 2009) (available at http://www.uscis.gov/files/nativedocuments/TVPRA_SIJ.pdf) (hereinafter *TVPRA – SIJ Provisions Memo*). The SIJ provisions of the TVPRA are applicable to this appeal. *See* Section 235(h) of the TVPRA (stating that the TVPRA shall “apply to all aliens in the United States in pending proceedings before the Department of Homeland Security” on December 23, 2008).

Section 101(a)(27)(J) of the Act, as amended by section 235(d) of the TVPRA, describes a “special immigrant” as:

an immigrant who is present in the United States—

- (i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;
- (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; and

- (iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—
 - (I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and
 - (II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

8 U.S.C. § 1101(a)(27)(J), as amended.

Here, the petitioner concedes that she filed the petition for SIJ classification by mistake. *See Form I-290B, Notice of Appeal, supra*. Additionally, the record contains no evidence that the petitioner meets any of the requirements for SIJ classification. *See* 8 U.S.C. § 1101(a)(27)(J). Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.