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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



TA

FILE: [REDACTED] OFFICE: PHILADELPHIA

DATE: NOV 29 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The District Director, Philadelphia, Pennsylvania, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed the Petition to Classify Orphan as an Immediate Relative (I-600 petition) on January 23, 2004. The petitioner is a fifty-one-year old citizen of the United States. The beneficiary was born in Haiti on August 5, 1988, and she is seventeen-years-old.

The district director denied the I-600 petition on May 25, 2005, based on the petitioner's failure to comply with requests for a valid home study from a licensed agency.

In an appeal filed on June 27, 2005, the petitioner asserts that the beneficiary is the child of her deceased sister, and she requests that she be allowed to bring the beneficiary to the U.S. The petitioner submits copies of the beneficiary's mother's birth and death certificates as well as a copy of her own birth certificate. In a separate letter, the petitioner asserts that she has contacted a new home study agency, the Jewish Family Children Services, and that she is in the process of obtaining a new, valid home study. The record contains a home study from the Jewish Family & Children's Services of Greater Philadelphia, dated July 29, 2005, and received by the AAO on August 9, 2005.

Where an applicant has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to the deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988). *See also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). The present record reflects that prior to denying the petitioner's I-600 petition on May 25, 2005, the U.S. Citizenship and Immigration Services (CIS), Philadelphia, Pennsylvania district office sent the petitioner three separate requests for a valid home study conducted by a licensed home study agency. The petitioner was thus clearly put on notice regarding the deficiency of evidence in her case.

Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Title 8 of the Code of Federal Regulations (8 C.F.R.) section 204.3(a)(2) states, in pertinent part, that:

[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.

The purpose of the district director's request for evidence was to elicit further information that clarified whether eligibility for the benefit sought had been established. The petitioner's failure to submit evidence pursuant to the district director's requests thus precluded CIS from examining or pursuing a material line of inquiry. As discussed above, the petitioner in the present matter was put on notice regarding the deficiency of evidence in her case. Accordingly, the AAO will not consider the evidence submitted on appeal by the petitioner.

In visa petition proceedings, the burden of proof rests solely with the petitioner. *See* section 291 of the Act; 8

U.S.C. § 1361. The petitioner has failed to meet her burden in the present matter and the appeal will be dismissed

ORDER: The appeal is dismissed.