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U.S. Citizenship
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FILE:

Office: BOSTON (PROVIDENCE, RI)

Date: **OCT 20 2006**

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The Petition to Classify Orphan as an Immediate Relative was denied by the District Director, Boston. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn and the matter will be remanded for further consideration.

The petitioner, [REDACTED] and his wife, [REDACTED] and [REDACTED] filed a Petition to Classify Orphan as an Immediate Relative (I-600 Petition) on March 2, 2005 on behalf of [REDACTED], the daughter of her brother, [REDACTED]. The district director concluded that the petitioner had failed to respond to a request for evidence and denied the petition accordingly, citing Title 8 of the U.S. Code of Federal Regulations (8 C.F.R.), Section 103.2, which states in pertinent part:

Effect of failure to respond to a request for evidence or appearance. If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

The decision of the district director enumerated the several requests for evidence that were issued and the responses by the petitioner asking for extensions to submit the requested documentation. The most recent request for evidence (Form I-72) was sent to the petitioner on October 11, 2005 by Citizenship and Immigration Services (CIS), indicating the remaining documents needed for further processing of the I-600 Petition: (1) the original death certificate for Herby [REDACTED] the father of the beneficiary; (2) an Extrait de Minutes de Greffe of the Tribunal de Paix having jurisdiction over the domicile of the child; (3) an Autorisation d'Adoption from the Institut du Bien Etre Social et de Recherches (IBESR); and (4) an Acte d'Adoption by the Tribunal Civil having jurisdiction over the domicile of the child. In response, [REDACTED] asked for an extension because she had not received the papers from Haiti and the director of IBESR had not yet signed the papers. An extension until February 21, 2006 was granted. On March 27, 2006, an additional Form I-72 was sent to the petitioner stating,

You have still not provided the requested documentation, specifically the "extrait des Minutes de Greffe," the "Acte d'Adoption" and the original death certificate for Herby Adolphe. You have also not addressed the Service's allegations regarding the authenticity of the death certificate (copy) you provided for Herby [REDACTED] specifically regarding the date of death on this certificate which predates his personal registration of his daughter's birth in May of 1995.

The petitioner was granted until June 27, 2006 to submit the requested documents. In denying the I-600 Petition, the district director noted that all the requested documents, other than the *original* death certificate for [REDACTED] [REDACTED] were submitted on May 9, 2006. The district director added,

You also submitted a new original birth certificate for [REDACTED] indicating that this birth was registered in 1991. This birth certificate however, does not reference a page or number in the National Archives of Haiti to which it refers.

You have been given ample opportunity to provide the Service with the requested original death certificate for [REDACTED]. You have failed to submit this document. Therefore, in accordance with Title Eight, Code of Federal Regulations, Section 103.2, your petition is denied. *Notice of Denial*, July 20, 2006.

The district director also noted that on February 22, 2006, the petitioner had submitted "a copy of the death certificate for [REDACTED] [and] a new birth certificate for [REDACTED] indicating that [REDACTED] deceased in 1993, registered his daughter's birth in Port Au Prince on May 8, 2000." *Id.*

On appeal, Mr. and [REDACTED] submit the "original" death certificate for [REDACTED] and a certified English translation, explaining that they "have for quite some time been attempting to obtain [it] . . . [and] have been at the mercy of persons in Haiti with whom they have been corresponding and whom they have been paying to forward to them the necessary documents." *Notice of Appeal to the Administrative Appeals Office (AAO), Form I-290B*, August 11, 2006. They request that the district director's decision be overturned or reopened so that the I-600 Petition can continue to be processed.

Guidance from the U.S. Department of State (<http://travel.state.gov/family/adoption/country/>; updated August 2006) on intercountry adoptions from Haiti notes that only the IBESR office in Port-au-Prince can authorize an adoption, and this authorization is often the most time-consuming of the overall adoption process. Documents required by the IBESR include the child's *extrait de naissance* (extract of birth), which should not be confused with the *acte de naissance*, the document upon which the *extrait* is based; if a biological parent of the child is deceased, an *extrait de décès* (extract of death) is required. The National Archives in Port-au-Prince is the only Haitian agency with authority to issue extracts related to acts of birth, death, marriage, and divorce. Each of these documents is based on an *acte* of birth, death, marriage, and divorce; this *acte* is rarely sufficient for IBESR or U.S. immigration purposes, and numerous additional documents are required. In this case, the record reflects that the petitioners have met all these requirements and submitted the *Autorization d'Adoption* (Adoption Authorization), issued by the IBESR upon approval of the adoption, and the *Acte d'Adoption* (Adoption Act), issued by and the Civil Court, which finalizes the adoption.

The issue raised by the district director is whether the documents in the record, purported to be certified copies of the original birth certificate of the beneficiary and the death certificate of her father, are valid. The AAO notes that several versions of extracts of these documents and their English translations have been submitted. The district director specifically questions the authenticity of the death certificate based on a perceived discrepancy between the date of death of [REDACTED] listed as December 8, 1993 on all documents in the record, and the date that [REDACTED] personally registered the birth of his daughter, the beneficiary, which the district director states was reported as May 16, 1995 or May 8, 2000. A request for evidence refers to this discrepancy:

Please note: the authenticity of the death certificate you sent in for [REDACTED] is being questioned as the birth certificate you submitted for [REDACTED] indicates that [REDACTED] personally registered his daughter's birth on 'May 16, 1995.' The death certificate you submitted for [REDACTED] indicates that he died on 12/8/93. (emphasis added). *Form I-72*, October 11, 2005.

The birth certificate referred to was a form with summary information, accompanied by an English translation, also in summary format. A second extract, in paragraph format, was then submitted in response to the request for evidence. Referring to the second copy, received by CIS on February 22, 2006, the district director stated that the response included "a new birth certificate for [REDACTED] indicating that [REDACTED] deceased in 1993, registered his daughter's birth in Port Au Prince on May 8, 2000." *Notice of Denial*, July 20, 2006. A third copy was subsequently submitted on March 27, 2006, and the district director noted that this "new original birth certificate . . . [indicated] that this birth was registered in 1991." *Id.*

After a review of all of the documents in the record, the AAO finds that the district director erred in concluding that the certified copies of [REDACTED]'s birth certificate (each actually an *extrait de naissance* (extract of birth)) indicated registration dates *after* the 1993 date of death of [REDACTED]. This misreading of the documents or their translations led to a subsequent conclusion doubting the authenticity of the certified copies of [REDACTED]'s death certificate and a continued request for an "original." The petitioner submitted additional copies in response to each request for evidence, but the different versions failed to clarify the issue.

As partial clarification, the AAO notes that the French versions of the extracts of the birth and death acts that were submitted (those in paragraph form and not in summary) all contain the following standard language below the letterhead of the National Archives of Haiti: "*Extrait des Registres des Actes de [naissance / décès] déposés au bureau des Archives Nationales de la République et délivré sur papier non timbré suivant l'article 2 du décret du 12 mai 1995.*" As summary translations contain only the document's "essential information," these words were not included if the translation was in summary form; however, they were included in the translation of the second extract of [REDACTED]'s birth certificate that was submitted, as follows: "Extract from the registries of birth certificates in filed at [sic] the office of the National [A]rchives of the Republic and delivered on non-stamped paper according to the Article 2 of the May 12, 1995 decree." The "May 12, 1995" date does not refer to the registration of the birth, as assumed by the district director, but rather to the date of passage of a law regarding the delivery of extracts. The "extract" that follows begins with the date that it was prepared and repeats that date in the margin. The date of the certified copy is shown under the certification seal. These dates may all differ. In this case, copies of different extracts of the birth and death registries were submitted in response to requests for information. Translations can be misleading and, in the case of the documents at issue in this case, the dates on any one document may refer to either the act in question, e.g., a birth or death, or the official registration of the act, or the certification of a copy of extract, or some other date as evidenced by the inclusion of the date of passage of a law regarding extracts. Because the district director assumed that the references in the birth extracts to 1995 or 2000 were to the registration date for [REDACTED] birth, and all documents noted that [REDACTED] personally registered the birth, the district director logically questioned the authenticity of a death certificate showing that [REDACTED] in 1993. However, the premise for the conclusion that the true death certificate was not submitted is in error.

The most recent and most complete submissions of both the death extract and the birth extract show that [REDACTED] born in 1990, her birth was registered in 1991 by her father [REDACTED] and [REDACTED] 1993. The absence of the page and number of the registry on the birth extract remains a question to be clarified.

The AAO cannot determine the authenticity of documents. Given the misunderstandings in this case, however, the AAO withdraws the decision of the district director and remands for further consideration and issuance of a new decision. If the decision is adverse to the petitioner it shall be certified to the AAO for review.

ORDER: The decision of the district director is withdrawn, and the case is remanded for further consideration.