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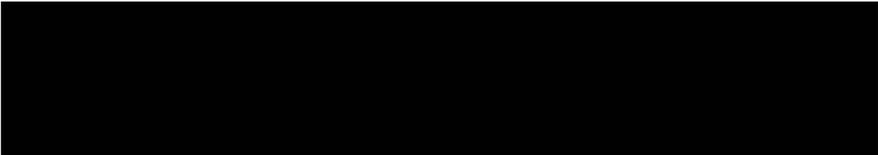


Office: DETROIT DISTRICT OFFICE

Date:

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 District Director, Detroit, Michigan, revoked the Petition to Classify Orphan as an Immediate Relative. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, [REDACTED] filed a Petition to Classify Orphan as an Immediate Relative (I-600 Petition) on August 30, 2005. The District Director issued a notice of intent to revoke a prior approval of the I-600 Petition, concluding that the beneficiary did not meet the requirements of the definition of “orphan” under section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(b)(1)(F). *District Director Decision*, May 8, 2006. The petition was revoked accordingly.

The petitioner is a 43-year-old U.S. citizen; his wife is also a U.S. citizen. The beneficiary is a five-year-old citizen of Sierra Leone, born in Freetown, Sierra Leone in 2002, and currently residing in Sierra Leone. The record reflects that the petitioner and his wife adopted the beneficiary by order of the High Court of Sierra Leone based on the Court’s understanding that the beneficiary’s biological mother had previously relinquished parental control of her daughter to Childhelp Sierra Leone, an orphanage registered with Sierra Leone’s Ministry of Social Welfare (MSW). *Court Order*, July 5, 2005; *Letter to U.S. Embassy Dakar from MSW*, July 11, 2005. The record also contains a copy of the beneficiary’s birth certificate, indicating that her biological father’s name is Sorie Janneh-Bangura, and a “Parent Relinquishment of Child for Adoption and Emigration,” by the beneficiary’s biological mother. *Relinquishment*, June 8, 2005. In the Relinquishment, the beneficiary’s biological mother affirms that she irrevocably releases her child to Childhelp Sierra Leone, that the child’s biological father denies parentage and has abandoned her and the child, and that she has insufficient means to care for the child according to the standards of Sierra Leone.

A field investigation requested by the American Embassy in Dakar, Senegal, and conducted by the U.S. Embassy in Freetown, Sierra Leone, revealed several inconsistencies in the record:

The biological father of the beneficiary is known and has not disappeared or abandoned or deserted the beneficiary; his name is [REDACTED], not [REDACTED] as listed on the child’s birth certificate. [REDACTED] acknowledged the beneficiary through a customary ceremony called [REDACTED] which assures a father’s parental rights to a child who is born out of wedlock; he has provided some financial assistance and has visited the beneficiary.

The beneficiary’s birth certificate was registered at the maternity hospital in Freetown, but the registry contains some irregularities. The registry does not list an informant or a date of registration, indicating that the birth certificate was issued in a fraudulent manner possibly with incorrect data.

The beneficiary is currently living with her biological mother and her maternal grandmother, who removed the beneficiary from Childhelp’s orphanage in June or July 2005 after learning that the child was possibly going to the United States.

For these reasons, the district director issued the notice of intent to revoke the I-600 Petition, concluding that the beneficiary was not an “orphan” as defined in the Act, as her biological mother was not a sole parent; and she was not an orphan because of “the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents,” as required under section 101(b)(1)(F) of the Act. As no information was submitted to rebut this conclusion, the I-600 Petition was revoked on that basis.

On appeal, the petitioner asserts, through counsel, that the field investigation by the U.S. Consulate in Freetown contained numerous factual errors and erroneous information, and that the petitioner was in the process of arranging an independent investigation in Sierra Leone. *Notice of Appeal to the Administrative Appeals Office (AAO)(Form I-290B)* and *Letter from [REDACTED] to USCIS*, June 6, 2006, requesting 60 days to submit a brief and/or evidence to the AAO. Difficulties in Sierra Leone interfered with the conduct of such investigation, despite additional time extensions, which were requested and granted. *Letters from [REDACTED] to USCIS*, August 3 and October 2, 2006.

To date, the record indicates that no independent investigation has been conducted and no evidence to refute the information obtained by the field investigation has been obtained. Instead, the petitioner has submitted a "Motion for American Embassy to Collect DNA Specimens," requesting the AAO to direct the American Embassy in Freetown, Sierra Leone to collect DNA specimens from the beneficiary and [REDACTED], the individual named as the biological father on the child's birth certificate. *Motion*, submitted October 2, 2006. The motion also alleges that [REDACTED] is the older half-brother of the beneficiary, not her father as stated in the district director's decision and as concluded by the field investigation.

The AAO notes that it has no jurisdiction over the American Embassy and no authority to direct that a DNA specimen be collected. In addition, the unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). The entire record was reviewed in coming to this decision.

Section 101(b)(1)(F) of the Act 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 (emphasis added).

U.S. Department of State guidance on adoptions of orphans from Sierra Leone notes that the U.S. Embassy in Dakar, Senegal issues immigrant visas for Sierra Leonean citizens, including adopted orphans, and that due to a high rate of document and adoption fraud in Sierra Leone, the U.S. Embassy in Dakar carefully scrutinizes all immigrant visa cases and will almost always request that the U.S. Embassy in Freetown, Sierra Leone conduct a field investigation to confirm a child's orphan status. <http://travel.state.gov/family/adoption/>, last updated February 2006. The U.S. Embassy in Dakar will return all approved immigrant visa petitions (I-600s) to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) if, after

an investigation, the relevant adoption court orders are determined to be fraudulent and/or the prospective adopted children are determined not to be orphans under section 101(b)(1)(F) of the Act. *Id.*

In this case, as a result of the field investigation described above, it was determined that the birth certificate of the beneficiary contains incorrect information and may have been issued fraudulently; in addition it was determined that, although born out of wedlock, the beneficiary had been acknowledged by her biological father and he had not abandoned or deserted her as claimed by her biological mother.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). In this case, the petitioner has not submitted any evidence to rebut the findings of the field investigation or explain the inconsistencies in the record. Based on the record, therefore, the AAO finds that the beneficiary does not meet the definition of "orphan" under section 101(b)(1)(F) of the Act.

In visa petition proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met her burden in the present matter. The appeal will therefore be dismissed

**ORDER:** The appeal is dismissed.