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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

[Redacted]

DATE: **JUL 16 2015**

[Redacted]

IN RE: Petitioner:
Beneficiary:

[Redacted]

PETITION: Petition to Classify Orphan as an Immediate Relative Pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)(i)

ON BEHALF OF PETITIONER:

[Redacted]

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Johannesburg, South Africa, denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification of an orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F)(i). The Field Office Director denied the petition on the basis that the petitioner had failed to establish that the beneficiary qualifies for classification as an orphan as that term is defined at section 101(b)(1)(F)(i) of the Act. Specifically, the Field Office Director found that the petitioner failed to establish that the beneficiary's birth mother met the definition of a *sole parent* as defined in the regulation and that the beneficiary's birth mother is unable to provide for the beneficiary's basic needs consistent with the local standards of Zambia.

Applicable law

The petitioner seeks classification of an orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Act, which defines an orphan, in pertinent part, as:

a child, under the age of sixteen at the time a petition is filed . . . 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. . . . *Provided*, That the [Secretary of the Department of Homeland Security] is satisfied that proper care will be furnished the child if admitted to the United States[.]

The regulation at 8 C.F.R. § 204.3(b) states, in pertinent part, the following:

Abandonment by both parents means that the parents have willfully forsaken all parental rights, obligations, and claims to the child, as well as all control over and possession of the child, without intending to transfer, or without transferring, these rights to any specific person(s). Abandonment must include not only the intention to surrender all parental rights, obligations, and claims to the child, and control over and possession of the child, but also the actual act of surrendering such rights, obligations, claims, control, and possession. A relinquishment or release by the parents to the prospective adoptive parents or for a specific adoption does not constitute abandonment. Similarly, the relinquishment or release of the child by the parents to a third party for custodial care in anticipation of, or preparation for, adoption does not constitute abandonment unless the third party (such as a governmental agency, a court of competent jurisdiction, an adoption agency, or an orphanage) is authorized under the child welfare laws of the foreign-sending country to act in such a capacity. A child who is placed temporarily in an orphanage shall not be considered to be abandoned if the parents express an intention to retrieve the child, are contributing or attempting to contribute to the support of the child, or otherwise exhibit ongoing parental interest in the child. A child who has been given unconditionally to an orphanage shall be considered to be abandoned.

Competent authority means a court or governmental agency of a foreign-sending country having jurisdiction and authority to make decisions in matters of child welfare, including adoption.

Desertion by both parents means that the parents have willfully forsaken their child and have refused to carry out their parental rights and obligations and that, as a result, the child has become a ward of a competent authority in accordance with the laws of the foreign-sending country.

Disappearance of both parents means that both parents have unaccountably or inexplicably passed out of the child's life, their whereabouts are unknown, there is no reasonable hope of their reappearance, and there has been a reasonable effort to locate them as determined by a competent authority in accordance with the laws of the foreign-sending country.

Foreign-sending country means the country of the orphan's citizenship, or if he or she is not permanently residing in the country of citizenship, the country of the orphan's habitual residence. This excludes a country to which the orphan travels temporarily, or to which he or she travels either as a prelude to, or in conjunction with, his or her adoption and/or immigration to the United States.

* * *

Incapable of providing proper care means that a sole or surviving parent is unable to provide for the child's basic needs, consistent with the local standards of the foreign-sending country.

Loss from both parents means the involuntary severance or detachment of the child from the parents in a permanent manner such as that caused by a natural disaster, civil unrest, or other calamitous event beyond the control of the parents, as verified by a competent authority in accordance with the laws of the foreign-sending country.

* * *

Separation from both parents means the involuntary severance of the child from his or her parents by action of a competent authority for good cause and in accordance with the laws of the foreign-sending country. The parents must have been properly notified and granted the opportunity to contest such action. The termination of all parental rights and obligations must be permanent and unconditional.

Sole parent means the mother when it is established that the child is illegitimate and has not acquired a parent within the meaning of section 101(b)(2) of the Act. An illegitimate child shall be considered to have a sole parent if his or her father has severed all parental ties, rights, duties, and obligations to the child, or if his or her father has, in writing,

irrevocably released the child for emigration and adoption. This definition is not applicable to children born in countries which make no distinction between a child born in or out of wedlock, since all such children are considered to be legitimate. In all cases, a sole parent must be *incapable of providing proper care* as that term is defined in this section.

Surviving parent means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act. In all cases, a surviving parent must be *incapable of providing proper care* as that term is defined in this section.

The pertinent provisions of 8 C.F.R. § 204.3(d) state the following:

- (d) *Supporting documentation for a petition for an identified orphan . . .* An orphan petition must be accompanied by full documentation as follows:

* * *

- (1)(ii) The orphan's birth certificate, or if such a certificate is not available, an explanation together with other proof of identity and age;
- (iii) Evidence that the child is an orphan as appropriate to the case:
- (A) Evidence that the orphan has been abandoned or deserted by, separated or lost from both parents, or that both parents have disappeared as those terms are defined in paragraph (b) of this section; or
- (B) The death certificate(s) of the orphan's parent(s), if applicable;
- (C) If the orphan has only a sole or surviving parent, as defined in paragraph (b) of this section, evidence of this fact and evidence that the sole or surviving parent is incapable of providing for the orphan's care and has irrevocably released the orphan for emigration and adoption. . . .

The regulation at 8 C.F.R. § 204.3(k)(1) states, in pertinent part, the following:

I-604 investigations. An I-604 investigation must be completed in every orphan case. The investigation must be completed by a consular officer except when the petition is properly filed at a Service office overseas, in which case it must be completed by a Service officer. An I-604 investigation shall be completed before a petition is adjudicated abroad. When a petition is adjudicated by a stateside Service office, the I-604 investigation is normally completed after the case has been forwarded to visa-issuing post abroad. However, in a

case where the director of a stateside Service office adjudicating the petition has articulable concerns that can only be resolved through the I-604 investigation, he or she shall request the investigation prior to adjudication. In any case in which there are significant differences between the facts presented in the approved advanced processing application and/or orphan petition and the facts uncovered by the I-604 investigation, the overseas site may consult directly with the appropriate Service office. In any instance where an I-604 investigation reveals negative information sufficient to sustain a denial or revocation, the investigation report, supporting documentation, and petition shall be forwarded to the appropriate Service office for action. Depending on the circumstances surrounding the case, the I-604 investigation shall include, but shall not necessarily be limited to, document checks, telephonic checks, interview(s) with the natural parent(s), and/or a field investigation.

As further clarification of the definition of sole parent, we note that the U.S. Department of State's Foreign Affairs Manual (FAM) at 9 FAM 42.21, N13.2-6(1)(b) states, in pertinent part:

(b) A "sole parent," under 8 CFR 204.3(b), is one who is the mother of the child and whose situation meets all of the following criteria:

- (i) The child was born out of wedlock (regardless of whether or not local law deems all children to be legitimate at birth);
- (ii) The child has not been legitimated under the law of the child's residence or domicile or under the law of the natural father's residence or domicile while the child was in the legal custody of the legitimating parent or parents;
- (iii) The child has not acquired another parent under INA 101(b)(2), which may include a stepparent. (See 9 FAM 42.21 N13.2-6 paragraph 5 below concerning whether a child who has a stepparent nevertheless may be considered the child of a "sole parent"); and
- (iv) The natural father of the child is unknown, or has disappeared or abandoned or deserted the child, or has, in writing, irrevocably released the child for emigration and adoption.

Facts and procedural history

The petitioner is a [REDACTED]-year-old married U.S. citizen who seeks to classify the [REDACTED] year old beneficiary, a citizen of Zambia and his spouse's niece, as an orphan. The petitioner filed Form I-600, Petition to Classify Orphan as an Immediate Relative, with U.S. Citizenship and Immigration Services (USCIS) on March 18, 2014. The Field Office Director issued a Request for Evidence (RFE) on April 2, 2014, for proof of the beneficiary's mother's inability to care for the beneficiary. The petitioner responded with a statement, a social welfare department letter and a social welfare assessment report from the Zambian government, and medical reports for the beneficiary's grandmother. On July 1, 2014, the Field Office Director issued a Notice of Intent to Deny (NOID), noting numerous material inconsistencies; that the

beneficiary's mother is not unable to care for the beneficiary's basic needs consistent with the local standards in Zambia; that the beneficiary's father's whereabouts are not unknown; and that he has not abandoned the beneficiary. The petitioner responded with evidence related to the beneficiary's living situation and her educational situation; and the beneficiary's mother's financial and medical issues. The Field Office Director determined that the petitioner did not establish that the beneficiary's birth mother met the definition of a *sole parent* as defined in the regulation and that the beneficiary's birth mother is unable to provide for the beneficiary's basic needs consistent with the local standards of Zambia. The Field Office Director referred to financial support the petitioner provided to the beneficiary's mother as an indication that child-buying may have occurred; however, this was not found to be a separate ground of denial.

On appeal, the petitioner, through counsel, asserts that the beneficiary's mother is a sole parent and she is incapable of providing care to the beneficiary. In addition, he asserts that the financial support and items sent to the beneficiary do not constitute child-buying. The petitioner submits new evidence, including medical records for the beneficiary's mother, information on the petitioner's payments to his church and to the beneficiary's mother and grandmother, an investigation with supporting documents from [REDACTED] medical articles, a response to the beneficiary's mother's job application, the beneficiary's mother's statement, information on child-buying and information on Zambia.

We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review, the record does not demonstrate the beneficiary's eligibility as an orphan. The appeal will be dismissed.

Analysis

Sole parent

The definition of *sole parent* contained in 8 C.F.R. § 204.3(b) reflects, in pertinent part, that the term applies only to the birth mother of an illegitimate child who has not acquired another parent within the meaning of section 101(b)(2) of the Act.

First, we will address whether the beneficiary was born out of wedlock. The petitioner, through counsel, asserts that the beneficiary was born out of wedlock. The petitioner refers to the beneficiary's father's statement that "I am not even married, because life has been difficult for me" and social welfare reports stating that the beneficiary was born out of wedlock. The petitioner also cites a statement from the mother of the current headman stating that she did not know if the beneficiary's mother was married, as she has never seen a man at her house. The report from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated September 10, 2013, states that the beneficiary was born out of wedlock. The beneficiary's birth certificate lists the beneficiary's father but does not indicate whether he was married to the beneficiary's mother at the time of birth. Considering the evidence in the record, we conclude that the petitioner has provided sufficient evidence to establish that the beneficiary was born out of wedlock.

Second, we will address whether the beneficiary has been legitimated. The petitioner, through counsel, asserts that the beneficiary has not been legitimated under the law of her residence or domicile or under the

law of her father's residence or domicile. The petitioner cites to Chapter 52 of the Zambian Legitimation Act, which requires the filing of a court petition to legitimate a child. The petitioner states that there is no evidence that the beneficiary's father took legal steps to legitimate the beneficiary, and the two social welfare reports do not state that the beneficiary was legitimated. The petitioner states that during the application process for the beneficiary's birth certificate that the clerk most likely asked who the father is and the beneficiary's mother identified the beneficiary's father; taking the surname of a person is not evidence that that person has legal rights to the child; and many jurisdictions allow birth mothers to give their child any surname they choose. The petitioner has provided sufficient evidence to establish that the beneficiary has not been legitimated under Zambian law.

Third, we will address whether the beneficiary has acquired another parent. The petitioner states that the beneficiary has not acquired a stepparent, as the beneficiary's mother has not remarried. The record, which contains two investigations, does not include any evidence showing otherwise. The petitioner therefore has provided sufficient evidence to establish that the beneficiary has not acquired a stepparent.

Lastly, we will address whether the natural father of the child is unknown, or has disappeared or abandoned or deserted the child, or has, in writing, irrevocably released the child for emigration and adoption. The record reflects that the beneficiary's father is not unknown. In his December 1, 2014 statement, the beneficiary's father states that he has not supported the beneficiary financially, physically, and spiritually. The beneficiary's father states that he lives in [REDACTED] he has never been a resident of [REDACTED] and he irrevocably released the beneficiary for adoption and immigration. The beneficiary's mother stated to a U.S. consular officer, at an October 22, 2013 interview, that she resides with her mother and her two children; the beneficiary's father abandoned the beneficiary when she was born; she does not communicate with the beneficiary's father; and he lives 300 miles from her. The petitioner submitted documents from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated June 9 and June 19, 2014, which state that the whereabouts of the beneficiary's father are unknown. The petitioner submits a Report of Investigation, dated December 8, 2014, prepared by [REDACTED] which states that villagers who were interviewed claimed that the beneficiary's father has never lived in any residence in [REDACTED]

However, the U.S. consular officer who conducted the October 30, 2013, investigation related to Form I-604, Determination on Child for Adoption, interviewed an immediate neighbor of the beneficiary's mother, kindergarten teachers, and a neighbor living on the farm next to the beneficiary's grandmother. The immediate neighbor stated that a family of four, consisting of the beneficiary, her father, her mother and another child, live in a big, gray house. The neighbor from the farm stated that the beneficiary's father bought a residential plot next to the beneficiary's grandmother; he built a house there; he dated, then married the beneficiary's mother; they have two children; and she knows this because she is friends with the beneficiary's grandmother. The consular officer also spoke with three teachers at the school located directly opposite to the aforementioned gray house. The first teacher stated that the beneficiary lived with her father, mother and brother in a big house. The record includes a January 21, 2014, consular memo, stating that the beneficiary resides with both of her parents. The record, therefore, includes conflicting information on the whereabouts of the beneficiary's father and the level of his involvement with the beneficiary. Based on the evidence in the record, we find that the record does not establish that the beneficiary's father has disappeared, or abandoned or deserted the beneficiary.

The petitioner asserts that the beneficiary's father has irrevocably in writing released the beneficiary for emigration and adoption, and he signed the consent to adoption order. According to a witness statement submitted with the Report of Investigation on appeal, the beneficiary's father states that he "had irrevocably released [the beneficiary] for immigration and adoption," because he could not afford to provide care for her. The consent to adoption order, which states that a parent is deprived of all rights in respect to the maintenance and upbringing of a child, lists both the beneficiary's mother and father. However, only the beneficiary's mother signed this document on March 11, 2013. The report from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated September 10, 2013, states that both parents have consented to the beneficiary's adoption by the petitioner. The record does not include a written statement directly from the beneficiary's father irrevocably releasing the beneficiary for emigration and adoption. As such, the petitioner has not provided sufficient evidence to establish that the beneficiary's father has irrevocably in writing released the beneficiary for emigration and adoption.

The petitioner has not provided sufficient evidence to establish that the beneficiary's mother is a sole parent.

Ability to provide care for child

Moreover, had the petitioner established that the beneficiary's mother is a sole parent, the petitioner still must establish that the beneficiary's mother is incapable of providing for the beneficiary's basic needs. The petitioner, through counsel, asserts that the beneficiary's mother is not capable of providing for the beneficiary due to her poor health, inability to secure employment, inability to farm, below-poverty housing and living situation, and the need to care for her sick mother. The record, however, includes a January 21, 2014, U.S. Department of State memorandum concluding that the beneficiary resides with both of her parents; the parents are fully capable of properly caring for her; and their living conditions are above local Zambian standards.

With respect to the beneficiary's mother's ability to work and care for the beneficiary, the petitioner, through counsel, states that the beneficiary's mother suffers from disc prolapse, which prevents her from working in other than sedentary types of occupations, and her lack of education prevents her from being hired for an office job. The petitioner states in an August 10, 2014, letter that medical reports reflect that the beneficiary's mother has lumbar disc issues and cannot perform normal activities. The beneficiary's mother states that she does not work, as it is difficult to find work. The record includes medical documents reflecting that the beneficiary's mother has severe pain upon bending her back due to disc prolapse; all activities with bending the back should be suspended; it is recommended that she engage in sedentary work; she cannot perform her normal duties; and she has been coming to the physiotherapy department for pain management. The record also includes a letter from a company that rejected the beneficiary's mother's application for employment due to her lack of a high school education. The petitioner submitted documents from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated June 9 and June 19, 2014, which state that the beneficiary's mother is unemployed; the beneficiary's mother finished primary and basic education but could not continue due to lack of funds; and she relies on money from the petitioner.

Describing her living conditions, the beneficiary's mother stated to the U.S. consular officer at an October 22, 2013, interview that she resides with her mother and her two children in a small brick house. The petitioner, through counsel, states that their house, owned by her uncle, lacks electricity and running water; the beneficiary's mother lives below the poverty line by Zambian standards; water is available 800 to 900 meters away; and they move to two small one-room houses when her uncle is present. According to documents from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated June 9 and June 19, 2014, the beneficiary's mother lives with her mother and children in a house belonging to her uncle; the house is made of burnt bricks and does not have electricity; and the family has no livestock. The petitioner states in an August 10, 2014, letter that the village head man confirmed in a letter that the beneficiary's mother lives with her mother and children in a red burnt brick house, and she does not own any property. The petitioner submits a July 11, 2014, letter from Headman [REDACTED] of [REDACTED] Village [REDACTED] District [REDACTED] which states that the beneficiary's mother lives with her mother and her two children in a red burnt brick house owned by her mother's cousin. The beneficiary's mother states in her July 11, 2014 letter that her house is made of burnt brick and owned by her mother's cousin.

The U.S. consular officer subsequently conducted an investigation on October 30, 2013, with another embassy employee. They interviewed an immediate neighbor of the beneficiary's mother, local kindergarten teachers and a neighbor living on the farm plot next to the beneficiary's grandmother. The immediate neighbor told the consular officer that a family of four lived in a big, gray house: the beneficiary, her father, her mother and another child. The other neighbor stated that the beneficiary's father bought a residential plot next to the beneficiary's grandmother; he built a house there; he started dating the beneficiary's mother; he married her; they have two children; and she is aware of this information as she is friends with the beneficiary's grandmother. The consular officer spoke with three teachers at the school located opposite the aforementioned gray house. The first teacher stated that the beneficiary lived with her father, mother and brother in a big house; and the beneficiary's grandmother lived in a small brick house next to the big, gray house. The consular officer visited the small brick house, which appeared to be unoccupied; there were bags of cement in the living room, leaving little room for habitation; and there were no signs of habitation.

The petitioner, through counsel, states that the big, gray house that a neighbor described as the beneficiary's house actually is owned by the late [REDACTED] it is inhabited by his daughter, her brother and her grandmother; the red burnt brick house is owned by [REDACTED], a cousin of the beneficiary's grandmother; the beneficiary's mother only lives in this house when he is not in the village; and she lives in a one-room house when he is in the village. The beneficiary's grandmother's cousin states that he owns the red brick house; the beneficiary, her mother, grandmother and sibling live there when he is away; and they live in two one-room small houses when he is present. The petitioner's investigative report states the beneficiary's mother lives with her mother in a red brick house that does not have running water; the red brick house is owned by the beneficiary's grandmother's cousin; the beneficiary's mother lives in the red brick house; the beneficiary's mother does not own a house; and the gray house is occupied by someone else. The wife of the late headman states that she told the U.S. Embassy officials that the red brick house that the beneficiary's mother was staying in belongs to the beneficiary's grandmother's cousin, and there is no man in the house. The daughter of the late owner of the gray house states that she lives there with her grandmother and brother.

In addition, the beneficiary's mother states that she does not own farm land. However, according to the State Department investigation, a neighbor informed the officer that the beneficiary's mother has three acres of agricultural land.

Concerning the beneficiary's mother ability to send the beneficiary to school, the record includes a July 27, 2014 letter from a kindergarten teacher in ██████████ Village, who states that the beneficiary is not a student at the school. She also states in a November 26, 2014 statement that the beneficiary was at the kindergarten for two months but was sent home due to her family's failure to pay tuition. The record includes a November 26, 2014 letter from another kindergarten teacher, who states that she has never seen the beneficiary at the school. According to the U.S. consular investigator's interview with one of the local kindergarten teachers, the beneficiary was a student at the school and both parents were active in her life and upbringing.

Regarding the beneficiary's father's role in supporting the beneficiary and her mother, the beneficiary's mother stated to the U.S. consular officer at her October 2013 interview that he abandoned the beneficiary when she was born; she does not communicate with the beneficiary's father; and he lives 300 miles away. The petitioner, through counsel, states that the beneficiary's father does not live in ██████████ and the beneficiary's father has never resided there. Documents from the Republic of Zambia, Ministry of Community Development, Mother and Child Health, Department of Social Welfare, dated June 9 and June 19, 2014, state that the whereabouts of the beneficiary's father are unknown. The U.S. consular investigation, however, includes summaries of interviews with neighbors who claimed that the beneficiary's father resided with the beneficiary and her mother.

With respect to other issues pertinent to her ability to care for the beneficiary, the petitioner, through counsel, states that the beneficiary's mother cares for her mother, who is 71 years old and constantly sick. The beneficiary's grandmother's medical records reflect that she has a nodule on her lower left back, degenerative disc disease, hypertrophic osteophytes and facet joint arthritis.

The results of the consular investigation contradict material statements and other evidence regarding the beneficiary's mother's ability to properly care for the beneficiary. It is incumbent upon the applicant 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, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591. Upon review of the entire record, we find that the petitioner has not provided sufficient evidence that the beneficiary's mother is incapable of providing for the beneficiary's basic needs, consistent with local standards in Zambia, as set forth in 8 C.F.R. § 204.3(b).

Beneficiary is not an Orphan under any of the other criteria

The record does not show that the beneficiary is an *orphan* under any other criteria delineated at section 101(b)(1)(F)(i) of the Act and defined at 8 C.F.R. § 204.3(b). The record does not indicate that both of the beneficiary's birth parents abandoned her, have disappeared, or that the beneficiary has become a ward of a competent authority as the result of her birth parents' desertion. The record also does not indicate that the

beneficiary was involuntarily severed from her birth parents by action of a competent authority for good cause and in accordance with the laws of Zambia. Nor does the record show that the beneficiary was involuntarily and permanently severed or detached from her birth parents due to a natural disaster, civil unrest, or other calamitous event beyond the control of her birth parents and as verified by a competent authority.

Conclusion

As set forth in the discussion above, the petitioner has failed to establish that the beneficiary meets the definition of an *orphan*, as that term is defined at section 101(b)(1)(F)(i) of the Act. Consequently, the appeal will be dismissed.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed. The petition remains denied.