



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF N-W-D-

DATE: NOV. 24, 2015

APPEAL OF NATIONAL BENEFITS CENTER DECISION

PETITION: FORM I-600, PETITION TO CLASSIFY ORPHAN AS AN IMMEDIATE  
RELATIVE

The Petitioner, a citizen of the United States, seeks to classify an orphan as an immediate relative. See Immigration and Nationality Act (INA, or the Act) § 101(b)(1)(F)(i), 8 U.S.C. § 1101(b)(1)(F)(i). The Director, National Benefits Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. APPLICABLE LAW**

The Petitioner seeks classification of an orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Act, 8 U.S.C. § 1101(b)(1)(F)(i), which defines an orphan, in pertinent part, as:

a child, under the age of sixteen at the time a petition is filed in his behalf . . . 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[.]

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

*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.

....

*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*.

....

*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.

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

*Supporting documentation for a petition for an identified orphan.* Any document not in the English language must be accompanied by a certified English translation. ... An orphan petition must be accompanied by full documentation as follows:

(1) *Filing an orphan petition after the advanced processing application has been approved.* The following supporting documentation must accompany an orphan petition filed after approval of the advanced processing application:

....

(ii) The orphan's birth certificate, or if such a certificate is not available, an explanation with other proof of identity and age;

(iii) Evidence that the child is an orphan as appropriate to the case:

....

(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. . . .

## II. FACTS AND PROCEDURAL HISTORY

The Petitioner, a 51 year-old naturalized U.S. citizen, submitted Form I-600A, Application for Advance Processing of Orphan Petition, to U.S. Citizenship and Immigration Services on July 28, 2014, and it was approved on November 29, 2014. He submitted Form I-600, Petition to Classify Orphan as an Immediate Relative, on July 28, 2014, and it was denied on February 7, 2015. The Petitioner seeks to classify the Beneficiary as the child of a sole parent, the biological mother, who is incapable of providing proper care to the Beneficiary in Jamaica.

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The Director sent a Request for Evidence (RFE) to the Petitioner on November 29, 2014, asking, in part, for evidence of the Beneficiary's age, proof that the Beneficiary meets the definition of orphan under section 101(b)(1)(F)(i) of the Act, proof that a sole or surviving parent is incapable of providing the Beneficiary with proper care, and evidence of either a final adoption decree or of custody secured in accordance with Jamaican law.

In response to the RFE, the Petitioner provided a "Report on the Circumstances of the Birth Parent(s) and the Adoptee," from the Government of Jamaica Child Development Agency (CDA), dated January 16, 2015; an Adopted Children Register from Jamaica's Registrar General's Department (RGD), issued September 4, 2013; an adoption order, dated August 7, 2013; an irrevocable release from the Beneficiary's mother, dated April 1, 2013; and a birth registration form for the Beneficiary, listing no information about her biological father, dated April 26, 2004.

The Director denied the Form I-600 on February 7, 2015, concluding that the Petitioner had not submitted secondary evidence to accompany the Beneficiary's birth certificate, required because the certificate was not registered within one year of her birth; and the Petitioner's evidence was insufficient to establish that the Beneficiary's biological mother is incapable of providing proper care to the Beneficiary according to the standards in Jamaica. Therefore, the Director found that the Petitioner did not establish that the Beneficiary qualified for classification as an orphan under section 101(b)(1)(F)(i) of the Act.

On appeal, the Petitioner provides an RGD verification letter; school records for the Beneficiary; affidavits; and a CDA "Report on Adopted Child," dated February 26, 2015.

### III. ANALYSIS

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review, we find that the evidence in the record does not demonstrate that the Beneficiary meets the definition of an orphan as set forth in section 101(b)(1)(F)(i) of the Act.

The Petitioner asserts that he experienced difficulty complying with the request for evidence. Specifically, the request asked the Petitioner to "provide a letter from the registry... stating no birth certificate was found and provide secondary evidence." In a letter dated March 2, 2015, the Petitioner states that he spoke with a supervisor at the RGD, who told him that the RGD does not issue letters stating that a birth certificate cannot be found. The Petitioner submits a verification letter for the Beneficiary from the chief executive officer of the RGD, who states that the agency has the Beneficiary's birth record in its possession; the Beneficiary was born on [REDACTED]; the record was registered by the late registration process on April 26, 2004; and release of a birth certificate for a child adopted in Jamaica is discontinued, except by court order. The adoption order for the Beneficiary, dated August 7, 2013, states that it was proved to the satisfaction of the Family Court for the [REDACTED] that the Beneficiary was born on [REDACTED]. According to the U.S. Department of State:

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If you have received a full Adoption Order from a Jamaican court, you can obtain the actual order on security paper from the Jamaican Register General's Department (RGD). Once an Adoption Order is issued, the child's previous birth record is sealed and the Adoption Order issued by RGD replaces the original birth certificate.

<http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/jamaica.html> (accessed November 6, 2015).

The record includes the Beneficiary's Adopted Children Register, issued on September 10, 2013, which lists her date of birth as [REDACTED]. The Petitioner also submits, as secondary evidence, a letter from the acting principal of [REDACTED] in [REDACTED] Jamaica, who states that the Beneficiary entered the school at the age of three in September 2001, she graduated in July 2005, and she was born on [REDACTED] and a letter from the principal of [REDACTED] Jamaica, who states that the Beneficiary attended the school from September 5, 2005, until June 30, 2011, and the admission register reflects that she was born on [REDACTED]. Based on the evidence presented, the Petitioner has satisfied the requirement in 8 C.F.R. § 204.3(d)(1)(ii).

With respect to the request that he show that the Beneficiary's mother is unable to provide care, the Petitioner asserts that the CDA informed him that the report would be incomplete, as the Beneficiary's mother was not cooperative and informed the social worker that she did not want to be contacted or interviewed. The CDA report prepared by a regional adoption officer and reviewed by an adoption coordinator, dated February 26, 2015, states that the Beneficiary's mother is employed part-time as a security officer; she is struggling financially and does not have a stable home; and she has not cared for the Beneficiary since she was an infant. A prior CDA report reflects that she stated to the CDA that she has no interest in visiting the Beneficiary; she has not been a mother to her; and the Petitioner and his mother have been caring for the Beneficiary since she was a toddler. A regional adoption officer's assessment of a child's suitability for adoption is a required component of an adoption record and relied upon by the Jamaican Adoption Board and the family or magistrate court in an adoption proceeding. *See Matter of Rodriguez*, 18 I&N Dec. 9, 11 (Reg. Comm'r 1980) (citing social welfare agency study as evidence of a sole parent's inability to provide proper care). In reviewing the documents presented, we note that the CDA reports are given significant weight, although one is dated after the August 7, 2013, adoption order. Furthermore, a friend of the Petitioner states that the Beneficiary's mother became increasingly financially destitute in 2002 and essentially abandoned the Beneficiary to the care of the Petitioner; the Petitioner financially supports the Beneficiary; the Beneficiary's mother has not maintained contact or tried to develop a bond with the Beneficiary; and the Beneficiary's mother's financial state has become worse. The Petitioner's cousin states that the Beneficiary's mother lived with her from May 1999 until January 2000 after she claimed she was homeless; the Beneficiary's mother has not been involved with the Beneficiary's care since January 2000; the Petitioner provides for the Beneficiary financially; and the Beneficiary's mother's financial state has become worse.

However, the record does not include documentary evidence of the specific conditions where the Beneficiary's mother resides and of local standards in Jamaica. Going on record without supporting

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documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). 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 Jamaica, as set forth in 8 C.F.R. § 204.3(b).

#### IV. CONCLUSION

The Petitioner has not met his burden of establishing that the Beneficiary satisfies the definition of "orphan" as set forth in section 101(b)(1)(F)(i) of the Act. The appeal will therefore be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of N-W-D-*, ID# 13846 (AAO Nov. 24, 2015)