



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

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

MATTER OF S-S-D-

DATE: JULY 27, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, a U.S. citizen, seeks to classify an orphan as an immediate relative. *See* Immigration and Nationality Act (the Act) section 101(b)(1)(F)(i), 8 U.S.C. § 1101(b)(1)(F)(i). An orphan from a country that is not a party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, who is under the age of 16 at the time of filing and adopted abroad by an eligible U.S. citizen, or coming to the United States for such an adoption, may be classified as an immediate relative.

The Director, National Benefits Center, denied the Form I-600, Petition to Classify Orphan as an Immediate Relative (orphan petition). The Director concluded the Petitioner did not establish that the Beneficiary qualified for classification as an orphan. We dismissed a subsequent appeal.

The matter is before us on a motion to reopen and to reconsider. On motion, the Petitioner submits a brief statement and additional evidence. The Petitioner asserts that the Beneficiary's sole parent is incapable of providing for the Beneficiary's "basic needs, consistent with local standards of Jamaica[,]” and because of the sole parent's uncooperativeness, instability, and destitution, it is "almost impossible" to provide documentation.

Upon review, we will deny the motion to reopen and to reconsider.

**I. APPLICABLE LAW**

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

## II. ANALYSIS

### A. Motion to Reopen

The Petitioner submits with his motion new evidence, including an Addendum Report in which the Adoption Coordinator (the Coordinator) for the [REDACTED] reiterates that the Beneficiary and her sole parent have not lived together for many years, that her sole parent has not demonstrated any interest in the Beneficiary, and the Petitioner is “the only family” the Beneficiary knows. The Coordinator again states that the Beneficiary’s sole parent relayed having “moved on with her life and will not entertain [REDACTED] with any further information.” The Coordinator also describes the Beneficiary’s sole parent as living “a nomadic life” without a permanent residence in which to provide “a stable environment” to care for and meet the Beneficiary’s developmental needs. The Coordinator further indicates that the Beneficiary’s sole parent is now unemployed, and thereby, does not earn the “minimum basic income of \$5600.00 weekly in Jamaica” to adequately provide for the Beneficiary’s “basic needs.”

As discussed in our prior decision, the regulation at 8 C.F.R. § 204.3(b) requires that the record include evidence that the Beneficiary’s sole parent is unable to provide for the Beneficiary’s “basic needs consistent with local standards of the *foreign-sending country*.” Although the Coordinator generally refers in the Addendum Report to a “minimum basic income” in Jamaica, the Coordinator does not provide a further detailed explanation of the financial and social factors that constitute or reflect the local standards of Jamaica. The Petitioner also does not submit any additional evidence of such standards. Accordingly, the Petitioner’s new evidence offered on motion does not overcome our prior determination, concluding that the Petitioner has not sufficiently established the Beneficiary’s eligibility for classification as an orphan.<sup>1</sup>

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<sup>1</sup> To demonstrate the Beneficiary’s adoption, the Petitioner submitted a copy of Adoption Order issued by the Family Court for [REDACTED] along with Adopted Children Register issued by the Jamaica Registrar General’s Department. When discussing adoption requirements in Jamaica, the U.S. Department of State provides, in part:

There are two types of adoptions in Jamaica - Adoption Licenses and Adoption Orders. An Adoption License allows a Jamaican citizen child to be taken to a "scheduled country" (in this case, the United States) and to be adopted in that country . . . Under Jamaican law, U.S. citizens residing in the United States who are not adopting a relative will only qualify for an Adoption License. An Adoption Order signifies the full and final adoption under Jamaican law and is only available to prospective adoptive parents who are Jamaican citizens or who reside in Jamaica.

Bureau of Consular Affairs, *Intercountry Adoption (Jamaica)*, (February 1, 2013) <https://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/jamaica.html> (last visited July 2016).

Based on these requirements, it appears that U.S. citizens, like the Petitioner, who reside in the United States and are not adopting a relative, must obtain an Adoption License and not an Adoption Order for the adoption of a Jamaican citizen child to be valid pursuant to Jamaican law. We make no further finding on

B. Motion to Reconsider

In addition, the Petitioner's submission does not meet the requirements for a motion to reconsider. The Petitioner does not cite any binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied the pertinent law or agency policy. Accordingly, the Petitioner's submission on motion does not overcome our previous conclusion that the Petitioner has not demonstrated that the Beneficiary qualified for classification as an orphan. Moreover, a review of the record indicates that our prior decision was supported by the evidence in the record at the time, and we did not ignore or mischaracterize the Petitioner's evidence, or apply an erroneous standard of review.

III. CONCLUSION

Although the Petitioner has submitted evidence to support the reopening of this matter, the new evidence does not overcome the grounds for denial of the petition. The Petitioner bears the burden of proof to establish the Beneficiary's eligibility. 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. Accordingly, the motion to reopen and to reconsider will be denied.

**ORDER:** The motion to reopen is denied.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of S-S-D-*, ID# 16960 (AAO July 27, 2016)

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this issue as the petition is being denied on other grounds.