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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:



Office: NATIONAL BENEFITS CENTER

Date:

MAR 03 2011

IN RE:

Applicant:
Beneficiary:



APPLICATION: Application for Determination of Suitability to Adopt a Child from a Convention Country Pursuant to 8 C.F.R. § 204.310

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director denied the Form I-800A, Application for Determination of Suitability to Adopt a Child from a Convention Country, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded to the director for further processing of the Form I-800A application.

The director denied the application because the applicant failed to submit police clearances for his wife, which were requested pursuant to 8 C.F.R. § 204.310(b). On appeal, the applicant submits the requested police clearance.

Section 101(b)(1)(G) of the Act, 8 U.S.C. § 1101(b)(1)(G), governs the immigration of children who are adopted, or are coming to the United States to be adopted, by U.S. citizens under the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993 ("Convention"). An applicant seeking to be determined eligible and suitable as the adoptive parent of a Convention adoptee must file Form I-800A. 8 C.F.R. § 204.310(a). Additionally,

Upon the proper filing of a Form I-800A, USCIS will arrange for the collection of biometrics from the applicant and each additional adult member of the household, as prescribed in 8 C.F.R. § 103.2(e), but with no upper age limit. . . . USCIS may waive this requirement for any particular individual if USCIS determines that that person is physically unable to comply. However, USCIS will require the submission of affidavits, police clearances, or other evidence relating to whether that person has a criminal history in lieu of collecting the person's biometrics.

8 C.F.R. § 204.310(b).

Here, the applicant's wife's fingerprints were twice returned with unclassifiable results. Therefore, the director required submission of local police clearances. The applicant failed to submit the police clearances, and the Form I-800A was denied on May 12, 2010.

The applicant filed a timely appeal on June 2, 2010, pursuant to 8 C.F.R. § 204.314(a). On appeal, the applicant submitted the required police clearance. Therefore, the director's decision will be withdrawn, and the matter will be remanded for further proceedings.

ORDER: The director's decision is withdrawn. The matter is remanded to the director for further processing of the Form I-800A application.