



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

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

In Re: 20995305

Date: APR. 19, 2022

Appeal of National Benefits Center Decision

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 under Immigration and Nationality Act (the Act) section 101(b)(1)(F)(i), 8 U.S.C. § 1101(b)(1)(F)(i). The Director of the National Benefits Center denied the Form I-600, Petition to Classify Orphan as an Immediate Relative (orphan petition), concluding that the Beneficiary did not meet the definition of an “orphan” under section 101(b)(1)(F)(i) of the Act. On appeal, the Petitioner submits additional evidence and previously submitted evidence regarding the Beneficiary’s eligibility for the benefit sought. In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

A child who meets the definition of orphan under section 101(b)(1)(F)(i) of the Act is eligible for classification as the immediate relative of a U.S. citizen. 8 C.F.R. § 204.3. An orphan is defined as a child, under the age of 16 at the time a petition is filed on his or her 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; who has been adopted abroad by a United States citizen, or who is coming to the United States for adoption by a United States citizen; provided, that the Secretary of Homeland Security is satisfied that proper care will be furnished if the child is admitted to the United States. Section 101(b)(1)(F)(i) of the Act.

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 persons.

II. ANALYSIS

A. Relevant Facts and Procedural History

The Petitioner filed the orphan petition on behalf of the Beneficiary, a citizen of Nigeria, in March 2020, when the Beneficiary was two years old. The Petitioner marked the box on the orphan petition indicating that the Beneficiary is an orphan because she “has no parents due to death or disappearance of, abandonment or desertion by, or separation or loss from both parents.” With the filing of the orphan petition, the Petitioner submitted an “Affidavit for Care Studies To Whom It May Concern” (affidavit) from the Beneficiary’s birth mother, an “Extract from Crime Diary” from the Nigerian Police Force (crime extract), an “Approval for Release of Baby Girl” from the Ministry of Women Affairs and Social Development (Ministry), a “Temporary Release Form” from the Ministry signed by the Petitioner’s spouse, a Certificate of Birth from the national Population Commission for the Beneficiary, an *Enrolment of Order* from the Juvenile Court of [REDACTED] Nigeria, a Medical Report/Fitness Certificate from the Hospitals Management Board for the Beneficiary, a report regarding the Beneficiary’s adoption from the Ministry, and a letter regarding the Beneficiary’s adoption from the Petitioner’s attorney in Nigeria.

After a review of the orphan petition, the Director issued a request for evidence (RFE) seeking additional evidence of how the Beneficiary met the definition of an orphan under the Act. In response to the RFE, the Petitioner submitted a letter from the Ministry confirming the details of the Beneficiary’s adoption from March 2019, a letter of attestation of the Beneficiary’s adoption from the Petitioner’s attorney in Nigeria, and letters from the Petitioner and their attorney in Nigeria explaining their delay in obtaining additional evidence from the Ministry and the [REDACTED] [REDACTED] (orphanage). The Director issued a second RFE again seeking additional evidence of how the Beneficiary met the definition of an orphan under the Act. In response, the Petitioner submitted, among other things, an updated letter from the director of the orphanage dated in June 2020 stating that the Beneficiary was born in her orphanage home.

The Director determined that the evidence in the record including the two RFE responses did not contain credible evidence regarding the Beneficiary’s identity. Specifically, the Director noted that the birth mother’s residential address listed on the crime extract and the purported birth mother’s affidavit could not be confirmed by the Ministry or the Petitioner’s attorney in Nigeria. The Director also noted that the crime extract indicated that the Beneficiary was born at [REDACTED] Health Clinic, but a letter from the director of the orphanage indicated that the Beneficiary was born in the orphanage. Lastly, the Director highlighted that the Beneficiary’s birth certificate listing the Petitioner and his spouse as her parents dated in January 2019 was issued *prior* to her adoption in February 2019. Based on these inconsistencies, the Director denied the orphan petition, concluding that the Petitioner “failed to establish credible proof of the beneficiary’s identity and therefore proof as to how [she met] the definition of an orphan as defined in INA [section] 101(b)(1)(F)(i).”

B. The Petitioner Has Not Established that the Beneficiary Meets the Definition of an Orphan under Section 101(b)(1)(F) of the Act.

On appeal, the Petitioner asserts that the Beneficiary meets the definition of an orphan due to abandonment by both of her parents. He references an updated letter, in which his attorney in Nigeria explains that he revisited the Beneficiary's birth mother's residential address and reconfirmed that the address did not exist. Additionally, the Petitioner submits an updated statement from the director of the orphanage stating that the Beneficiary was born at the [] Health Center, and that she was unable to obtain the Beneficiary's birth records from the center because it was closed after its owner passed away. Lastly, regarding the Beneficiary's late-registered birth certificate, the Petitioner states that he and his spouse obtained it because they "felt the need to have a record of birth as no other birth records were provided during the process."

We acknowledge the Petitioner's additional evidence and assertion that the Beneficiary meets the definition of an orphan under the Act. However, as noted by the Director, the record contains discrepant information—regarding the purported birth mother's origins, the Beneficiary's place of birth, and the Beneficiary's birth certificate listing the Petitioner and his spouse as the birth parents prior to the finalization of the adoption—discrediting the Petitioner's assertion that the Beneficiary was abandoned by her birth parents. We additionally note other inconsistencies casting doubt on the Beneficiary's status as an orphan. In their report regarding the Beneficiary's adoption, the Ministry states that it "verified the facts as indicated in paragraphs 5 and 6 above [regarding the circumstances of Beneficiary's birth and birth parent's background] through the Nigeria Police Force and the orphanage and found them to be valid and authentic." However, the report goes on to state that they attempted to trace the birth mother, but she was nowhere to be found. As a result, it is unclear how the Ministry was able to verify that the circumstances of the Beneficiary's birth and her birth parent's background were "valid and authentic" when they were unable to locate the Beneficiary's birth mother. Rather, as stated in their report, the Ministry appears to have relied on facts "reported to the Nigeria Police Force . . . indicating among other things as contained in the Police Extract from Crime Diary and the Affidavit of Facts/Consent deposed to by the child's biological mother . . ." regarding her background and the Beneficiary's birth. Furthermore, the Beneficiary's birth mother stated under oath in [] 2018 that she gave birth to the Beneficiary at the [] Health Clinic. However, the director of the orphanage stated in a letter dated in June 2020 that "[the Beneficiary] was given birth to by a young girl in *our orphanage home*." (emphasis added). The Petitioner now submits an affidavit and Extract of Crime Diary from the director of the orphanage stating that the Beneficiary was born at [] Health Center, and that she could not obtain the Beneficiary's birth records because the center closed after its owner passed away. The Petitioner has not addressed or otherwise explained these contradictory statements from the director of the orphanage regarding the Beneficiary's place of birth on appeal. The Petitioner has also not explained how they were able to obtain a birth certificate listing himself and his spouse as the Beneficiary's birth parents *prior* to the Beneficiary's adoption, and their statement regarding their "need" to have the birth records does not provide insight into this discrepancy. Lastly, the Petitioner's attorney submitted an updated letter explaining that he revisited the purported birth mother's address and that "all the persons interviewed who were residing at the street corroborat[ed] our findings and further indicated that No[.] 13 of the street does not exist and has never existed at [] Street, []'. We note however, that an open-source search reveals that the address does exist and pertains to the [] International School, which was established in February 2017.

Accordingly, we agree with the Director's determination that the Petitioner has not provided credible proof of the Beneficiary's identity or status as an orphan due to abandonment under the Act. Accordingly, the Petitioner has not established, by a preponderance of the evidence, that the Beneficiary meets the definition of an orphan under section 101(b)(1)(F) of the Act, and the orphan petition will remain denied.

ORDER: The appeal is dismissed.