

6-27

Parker, Christine D

RELEASED IN
FULL

Sent: Thursday, January 13, 2011 10:06 PM
To: Rupp, Abigail M; Parker, Christine D; Ladenson, Jeffrey L
Cc: Pettit, James D; Dilworth, Alison E; Regan, Michael B; Conway, Ellen M; Petrush, Liza; Larsen, Jill K; McNeil, Matthew C; Dybdahl, Chloe J
Subject: RE: Question about returned petitions

REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer

Abby:

We should definitely huddle with the USCIS folks on the issue of what is approvable and what is not. Our general approach in VO with such scenarios is as follows (Chloe and Matt, weigh in if there is anything else to add);

- If the court approves or re-approves an adoption order based on the true facts of the case, then we consider the order to be valid (irrespective of whether those true facts would typically render that child not adoptable under local law.)
- If those same true facts also determine that the child is not an orphan per the INA, then the petition can obviously be returned as not approvable
- However, if the fraud neither contradicts the facts of the case as recited in the court order, nor undermines the child's claim to orphan status, then the case should proceed.

That's not to say that fraudulent or unethical acts on the part of an ASP should be ignored, it's just that where the adjudication is concerned, there are very narrow grounds under which it can affect the outcome.

John Wilcock
Post Liaison Division, Visa Office (CA/VO/F/P)
SA-1, L703A
U.S. Department of State
202-663-1082

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SBU
This email is UNCLASSIFIED.

From: Rupp, Abigail M
Sent: Thursday, January 13, 2011 1:26 AM
To: Wilcock, John D; Parker, Christine D; Ladenson, Jeffrey L
Cc: Pettit, James D; Dilworth, Alison E; Regan, Michael B; Conway, Ellen M; Petrush, Liza; Larsen, Jill K
Subject: RE: Question about returned petitions

John, thanks, we look forward to it. As we've said before, we also see many cases where we find fraud in the adoption process, generally at the local level, but then the federal court reapproves the adoption based on the true facts of the case. We very much need guidance as to whether any or all of these petitions should be sent back as 'not clearly approvable' if, in the end, the child meets the definition of orphan under US and Ethiopian law.

Best, Abby

This email is UNCLASSIFIED.

From: Wilcock, John D
Sent: Wednesday, January 12, 2011 11:33 PM
To: Rupp, Abigail M; Parker, Christine D; Ladenson, Jeffrey L
Cc: Pettit, James D; Dilworth, Alison E; Regan, Michael B; Conway, Ellen M; Petrush, Liza; Larsen, Jill K
Subject: FW: Question about returned petitions

Addis colleagues:

Returning to this e-mail chain on petition returns from post, Janice Jacobs was keen that we address with USCIS the issues highlighted in yellow below. Given we are all gathered at post next week, we should probably take advantage.

John Wilcock
Post Liaison Division, Visa Office (CA/VO/F/P)
SA-1, L703A
U.S. Department of State
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From: Parker, Christine D
To: Larsen, Jill K; Stott, Erinn C; Wilcock, John D; Petrush, Liza; Dilworth, Alison E
Cc: Rupp, Abigail M; Ladenson, Jeffrey L
Sent: Thu Dec 30 01:23:31 2010
Subject: FW: Question about returned petitions

Hi Jill,

We returned 10 cases as "not clearly approvable" for I-600s, and another 10 (appx) I-130s were recommended for revocation. Most of the I-600s returned were private inter-family adoptions in which the child's status as an orphan was doubtful, and the I-130s generally did not meet the two-year custodial residency requirement.

We have not (yet) received any back from USCIS as reaffirmed. However, the agency in one returned I-600 case (returned because the medical exam indicated the "child" was well over 16 at the time of the adoption) was frustrated with the delay in the review by USCIS Nairobi, and advised the family simply to go around that process and file a new I-600 with USCIS in the US, who approved it.

As we've stated previously, most of the children in our investigations, even when we confirm fraud in the process, end up being orphans. We welcome additional guidance on whether we should be returning any case in which we confirm fraud at any stage of the process, even if we believe the child still qualifies as an orphan – but from our previous discussions it didn't seem like that was the case.

We also welcome additional guidance on whether we should be returning cases from orphanages in which we've confirmed child-buying is occurring, or through kebeles in which we've confirmed that death certificates for biological parents are being falsified, etc.

We fully support (as you know!) any idea to move the I-604 screening process much earlier in the process, before the court date, which would allow us to document the fraud and share that information with the local court and USCIS and entirely avoid the situation we're currently in where cases can't be returned until the child is already (under Ethiopian law) legally in the custody of the amcit petitioner.

Best,
Christine

Christine Parker
Deputy Consular Section Chief
Addis Ababa, Ethiopia
ParkerCD2@state.gov

The Embassy's website is: <http://ethiopia.usembassy.gov>
This email is unclassified according to E.O. 12958

SBU
This email is UNCLASSIFIED.

From: Larsen, Jill K
Sent: Wednesday, December 29, 2010 6:23 PM
To: Rupp, Abigail M
Cc: Stott, Erinn C; Wilcock, John D; Petrush, Liza; Dilworth, Alison E
Subject: Question about returned petitions
Importance: High

Dear Abby,

Can you please let me know the number of adoption petitions returned last year as "not clearly approvable" to USCIS. If cases were returned, can you also please let me know if USCIS subsequently approved the cases and if there was a particular pattern that would raise questions on the orphan status of the children? This information will be helpful in crafting a possible program for I-604 pre-adjudication.

Thank you,

Jill Larsen
Branch Chief