

MATTER OF NG
IN VISA PETITION PROCEEDINGS

A-13756336-7-8-9-40

Decided by Board December 21, 1966

Where blood grouping tests (M-N system) conducted by 2 experts in the field establish that there is no incompatibility of blood between a petitioner and her alleged father, the beneficiary, but, in fact, a strong indication of the claimed relationship, the visa petition proceedings will be reopened for further consideration.

ON BEHALF OF PETITIONER: Haskell R. Barst, Esquire,
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The District Director at New York denied the visa petitions of the petitioner in behalf of her father, mother, and three brothers, because blood tests conducted, in part, in New York and, in part, in Hong Kong demonstrated incompatibility between the blood of petitioner and that of some of the family members. Counsel requested that this Board direct that arrangements be made at the expense of the petitioner for retesting in the United States of the parents' blood samples taken in Hong Kong, using the same sera or reagents which were used in the testing of her blood. This procedure has been denied by the American Consul at Hong Kong.

Following counsel's letter to this Board of October 31, 1966, he received a letter under the same date from Dr. Alexander S. Wiener, stating that Dr. Wiener had received two sets of blood specimens from Hong Kong and that retesting has now established that petitioner and her alleged father have the same blood type, MN₂. Dr. Wiener states,

The results thus not only show that parentage is not excluded, but instead strongly indicate that the parents are correct, because of the occurrence of the type MN₂ in both Ng Wah Koy¹ and Mrs. Yit Sen M₂², which is too rare to be merely a coincidence.

I have no doubt that your appeal to have the immigration application reconsidered will now prove successful.

¹ Alleged father

² Petitioner

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An earlier communication, July 22, 1966, from Dr. Wiener to counsel states that he originally tested the blood of petitioner and found her to be type M and so reported her type. Tests from Hong Kong showed her father and mother both to be type M and all of her brothers to be type M. When petitioner was tested by Dr. Leon N. Sussman, he found her to be type MN and informed Dr. Wiener, that he and Dr. Wiener had come to different conclusions on the subject of the petitioner's blood type. Apparently, it was on the basis of Dr. Sussman's test (showing petitioner to have an N factor in her blood) that the visa petition was denied. It is now agreed by these outstanding experts, that petitioner's blood type is MN², which reacts weakly to some sera or reagents, and "frequently fails to react at all".

In most cases coming to the Board where allegations of mistaken typing have been established, the mistakes have occurred in MN testing. Dr. Wiener and Dr. Sussman, two of this country's outstanding authorities³, are now in agreement that respondent and her father have the same MN type and that there is no incompatibility but, in fact, a strong indication of the claimed relationship.

The discovery through retesting, carried out in New York with sera and by experts not available in Hong Kong should be given further consideration. The records will be remanded for this purpose.

ORDER: It is ordered that the records be reopened and reconsidered in accordance with the foregoing opinion.

² *Matter of L—*, 8 I. & N. 259; *Matter of D—W—O—& D—W—H—*, 5 I. & N. 351, cert. den. 350 U.S. 847, sub nom *Dong Wing Ott & Dong Wing Han v. Shaughnessy*.