

MATTER OF ALADIN

In Visa Petition Proceedings

A-20314137

Decided by Board August 29, 1975

Since under the law of Haiti adoption must occur when the child is less than 6 years of age, and since beneficiary was 13 years old at the time of adoption in Haiti, the adoption is invalid for immigration purposes. Hence, beneficiary is ineligible for immediate relative status under section 201(b) of the Immigration and Nationality Act, as amended, as the adopted child of the United States citizen petitioner.

ON BEHALF OF PETITIONER: Pro se

The United States citizen petitioner applied for immediate relative status for the beneficiary as her adopted child under section 201(b) of the Immigration and Nationality Act. In a decision dated May 23, 1975, the district director denied the petition, and the petitioner has appealed from that decision. The appeal will be dismissed.

The beneficiary, born on April 21, 1961, is a native and citizen of Haiti. In support of the petition, the petitioner presented an extract from the Births Register in the Republic of Haiti which states that the beneficiary was adopted by the petitioner on January 21, 1974. The district director denied the petition on the ground that the two-year legal custody requirement of section 101(b)(1)(E) of the Act had not been met.

In order to establish the eligibility of the beneficiary as the petitioner's adopted child for the purpose of conferring immigration benefits, the petitioner must show the existence of a valid adoption. The Haitian law on adoption, as set forth in a 1966 decree issued by President Duvalier and provided by the Library of Congress, states, in pertinent part:

1. Adoption is the act by which a person takes a child (a son or daughter) who is not his natural issue. This act is authorized to the benefit of any child of less than six years of age

Inasmuch as the beneficiary was thirteen years old at the time of the adoption, the adoption is invalid for immigration purposes. We need not address the question of whether the legal custody requirement of the Act has been met.

The appeal will be dismissed.

ORDER: The appeal is dismissed.