

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479



U.S. Citizenship
and Immigration
Services

DATE: [REDACTED]

File Number:

[REDACTED]

GAIL S SEERAM ESQ
1013 N PINE HILLS RD
ORLANDO FL 32808

[REDACTED]

NOTICE OF CERTIFICATION

IN THE MATTER OF:
Petition for Petition for Alien Relative (Form I-130)
Petitioner: [REDACTED]
Beneficiary: [REDACTED]

THE FOLLOWING ACTION HAS BEEN TAKEN IN THE ABOVE ENTITLED MATTER:

SEE ATTACHMENT

The case has been certified for review to:

CHIEF, ADMINISTRATIVE APPEALS OFFICE

Within thirty days after the date of this notice, you may submit a brief or other written statement for consideration by the reviewing authority. The thirty day period may be waived, but it may not be extended. Your brief or statement or waiver of this thirty day briefing period must be sent directly to:

U.S. Citizenship and Immigration Services
Administrative Appeals Office MS 2090
Washington, D.C. 20529-2090

Sincerely,

Daniel M. Renaud
Center Director
Vermont Service Center

CC: [REDACTED]

[REDACTED] filed a petition to classify the beneficiary under section 201(b) of the Immigration and Nationality Act (INA) as the spouse of an U.S. citizen.

On July 27, 2006, the President signed the Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act), Pub. L. 109-248, to protect children from sexual exploitation and violent crimes, to prevent child abuse and child pornography, to promote Internet safety and to honor the memory of Adam Walsh and other child crime victims.

Sections 402(a) and (b) of the Adam Walsh Act amend sections 101(a)(15)(K), 204(a)(1)(A) and 204(a)(1)(B)(i) of the INA, prohibiting U.S. Citizens and Lawful Permanent Residents who have been convicted of any "specified offense against a minor" from filing a family-based visa petition on behalf of any beneficiary, unless the Secretary of the Department of Homeland Security (the Secretary) determines in his or her sole and unreviewable discretion that the petitioner poses no risk to the beneficiary of the visa petition. Pursuant to 8 CFR part 103.1, the Secretary has delegated that authority to USCIS.

Section 111(7) of the Adam Walsh Act defines "specified offense against a minor":

The term 'specified offense against a minor' means an offense against a minor that involves any of the following:

- (A) An offense (unless committed by a parent or guardian) involving kidnapping.
- (B) An offense (unless committed by a parent or guardian) involving false imprisonment.
- (C) Solicitation to engage in sexual conduct.
- (D) Use in a sexual performance.
- (E) Solicitation to practice prostitution.
- (F) Video voyeurism as described in section 1801 of title 18, United States Code.
- (G) Possession, production or distribution of child pornography.
- (H) Criminal sexual conduct involving a minor or the use of the Internet to facilitate or attempt such conduct.
- (I) Any conduct that by its nature is a sex offense against a minor.

According to section 111(14) of the Adam Walsh Act, the term "minor" is defined as an individual who has not attained the age of 18 years. The statutory list of criminal activity that may be considered a specified offense against a minor is stated broadly in order to accommodate variances among Federal, state, and foreign criminal laws.

The record associated with this petition indicates that the petitioner was convicted of an offense which renders him ineligible to act as petitioner on a family-based visa petition. On September 4, 1996, the petitioner was convicted of a violation of Florida criminal statutes, FL 800.04(3)-Sexual Offense Against a Child-Fondling and was sentenced to serve 4 years of probation for that conviction.

At the time of the offense, the petitioner was 19 years old and the victim was his 13 year old girl friend. There was no reported evidence of violence or force associated with the conviction.

The petitioner generally struggled with the law in his teenage years and into his early twenties. The sexual encounter with the 13 year old girl friend was not the petitioner's only venture into teenage sexual activity. The petitioner and another teenager conceived a son when the petitioner was 16 years old. A family member acknowledges that the petitioner got into trouble as a teenager, but that he was a good kid for the most part. Into his twenties, the petitioner continued to have difficulties including driving while intoxicated and resisting arrest (nonviolent). The petitioner's rap sheet

shows that he has not consistently registered as a sex offender, and that the petitioner was charged with driving while his license was suspended in Florida in 2005-2006, and driving under the influence in Georgia in 2008. There is no record of convictions for those charges.

The petitioner and the beneficiary have been together since 2000 and have a 9 year old daughter together. Based on the testimony of acquaintances, since meeting the beneficiary, the petitioner has gradually become more and more responsible. The petitioner is now described as a hard worker and a man devoted to his family and community. The petitioner is now 36.

The risk assessment given by licensed clinical social worker, [REDACTED], comprehensive. The social worker interviewed and analyzed each of the four members of the core family which includes the petitioner, his nineteen year old son, the beneficiary, and their 9 year old daughter. Each of the family members was interviewed individually and also together as a family group. The clinical social worker observed the petitioner and the petitioner's family members interacting with one another and concluded that they all work well together and are supportive of each other.

The clinical social worker also conducted a variety of standard diagnostic tests. Based on the examination, interviews, and observations, the clinical social worker concluded that each member of the petitioner's family was loved and supported and each was valued as part of a larger team that functioned in an effective manner.

The clinical social worker concluded that she observed nothing that would indicate any risk of harm to the beneficiary. Rather, the clinical social worker concluded that the separation of the beneficiary from the petitioner would cause harm to the beneficiary.

Over 16 years have passed since the petitioner was convicted of a sexual crime with a minor. The petitioner and the beneficiary have been together since 2000 and have a daughter together. The petitioner and the beneficiary live together with their daughter in a socially functioning family. The petitioner shows evidence of rehabilitation and is described as a hard worker and devoted husband, father, and community member. The clinical social worker [REDACTED] evaluated the petitioner and the petitioner's family and concluded that the petitioner poses no risk to the beneficiary.

The Center Director has recommended that the instant petition be approved. Pursuant to 8 CFR 103.4(a), this decision is being certified to the Administrative Appeals Office (AAO) for their review and advisory opinion. The AAO will notify the VSC of their opinion and return the file to the VSC for final action. If the AAO affirms the Center Director's decision, this office will issue an approval notice, Form I-797.