

September 3, 2014

Adopted children can't later file for birth parents

Q: *My relative in the U.S. would like to adopt my child and take my child to live with them. What do we need to do and what does this mean? Can my child then file for me?*

Most likely, your relative in the U.S. would NOT be able to adopt your child and take him or her to live in the U.S. – at least, not without other strict circumstances being met.

Here at the U.S. Embassy, we review over one hundred adoption immigration cases a year. Each of these cases comes to us only after its review by Jamaica's Child Development Agency (CDA). This agency verifies that the child is eligible for international adoption – that is, other options for the child's well-being have been considered, and found wanting. The CDA also verifies the ORPHAN status of the child, a circumstance that U.S. law requires for adoption to be possible under our immigration law. For a child to be considered an orphan under U.S. immigration law, one of the following six situations concerning the child's biological parents must apply:

1. The child's parents have disappeared and their whereabouts are unknown. If the parents' whereabouts are unknown, the CDA will put a good faith effort into locating them through field investigations, neighborhood interviews or publishing advertisements.
2. The child's parents have abandoned the child and have willfully given up parental rights. The child has been given up to an orphanage or is a ward of the state.
3. The child's parents have deserted the child and the child is now a ward of the state subject to a Fit Person Order.
4. The child's parents have separated from the child and the child is subject of a Fit Person Order.
5. The child's parents are deceased, and the child is under the supervision of the CDA.
6. The child's parents have been permanently lost due to natural disaster, civil unrest, or circumstances beyond parental control. (Again, the child is under the supervision of the CDA.)

Many of the cases we see in Jamaica involve a sole or surviving parent, where the single parent feels incapable of providing proper care. In these cases, that single parent must be *incapable* and not just *unwilling* to provide support. In other words, a child cannot be approved for adoption solely because a parent believes they will have a better life in the U.S. or because they no longer feel like taking care of the child. The Child Development Agency determines that this circumstance prevails by reviewing the parent's situation to verify that the parent is incapable of providing for the child. This could be demonstrated in a number of ways, including proof of extreme poverty, mental or emotional difficulties, long-term incarceration or a medical condition or disability that makes it impossible for parents to find work and care for their child.

You ask if your child, once adopted and processed as an immigrant to the United States, can file for you to immigrate. The answer is an emphatic NO: Once an adoption is complete, the biological bond between birth parent and child is considered broken. The birth parent must sign away custody of the child, irrevocably. So, can the child that you gave up for adoption later file an immigrant petition for you once that child becomes a U.S. citizen and reaches adulthood? No.

To start the process of immigration through adoption, the prospective adoptive U.S. citizen parents should contact the Child Development Agency to see if their adoption of a Jamaican child is viable. If CDA accepts the U.S. citizens as potential adoptive parents, then it's time for them to file an I-600A petition with U.S. Citizenship and Immigration Services (USCIS). USCIS will review the petition to determine if the adoption is viable under U.S. immigration law. If USCIS approves the petition, the prospective parents will register with an adoption service provider in the U.S., and follow the additional steps that are outlined on our website, <http://www.uscis.gov/adoption/immigration-through-adoption/orphan-process>.

You can find more information about how to travel to the U.S. on our website, www.kingston.usembassy.gov. Keep on top of Embassy news on our Facebook page, <https://www.facebook.com/pages/US-Embassy-Jamaica> and by following @USEmbassyJA on Twitter. We also answer general visa questions on our Facebook and Twitter pages.