



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: E [REDACTED] P [REDACTED]

A [REDACTED]

Date of this notice: 4/6/2011

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Mann, Ana

Falls Church, Virginia 22041

File: A [REDACTED] - California Service Center

Date: APR - 6 2011

In re: B [REDACTED] D. P. [REDACTED] Beneficiary of a visa petition filed by
V [REDACTED] P [REDACTED], Petitioner

IN VISA PETITION PROCEEDINGS

APPEAL

ON BEHALF OF PETITIONER: Matthew L. Hoppock, Esquire

ON BEHALF OF DHS: Dana C. Laverty
Associate Counsel

APPLICATION: Petition to classify status of alien relative for issuance of immigrant visa

ORDER:

The petitioner has appealed from the decision of the California Service Center (CSC) Director dated February 3, 2010, denying the visa petition which was submitted by the petitioner on behalf of the beneficiary as his sibling.¹ The CSC Director found that the petitioner had failed to establish the claimed relationship due to the delayed registration of the beneficiary's birth certificate. While we acknowledge the CSC Director's reasoning, we find that, under the particular circumstances of this case, a remand is appropriate. The petitioner, who appears to share a common mother with the beneficiary, has offered to undergo blood testing to help establish the validity of the relationship in the instant case and has requested a remand for that purpose. The Department of Homeland Security (DHS), on appeal, has not responded to the petitioner's request for a remand for that purpose. In an abundance of caution, we find it appropriate to remand the record for the CSC Director to provide the petitioner an opportunity to submit to blood testing and to consider any additional evidence. Accordingly, the record is remanded to the CSC Director for further consideration of the visa petition consistent with the foregoing opinion.


FOR THE BOARD

¹ The petitioner has submitted evidence on appeal. However, where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, this Board will not accept evidence offered for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); see also *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).