

1 THE HONORABLE RICHARD A. JONES

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ELENA BROWN and
11 DANIL FEDORUK,

12 Plaintiffs,

13 v.

14 DEPARTMENT OF HOMELAND
15 SECURITY, *et al.*¹,

16 Defendants.

Case No. C16-1685-RAJ

ORDER

17 This matter comes before the Court on the parties' motions for summary
18 judgment. Dkt. ## 15, 16. Both motions are opposed. Dkt. ## 16, 17. For the reasons
19 that follow, the Court **GRANTS** Plaintiffs' Motion (Dkt. # 15) and **DENIES**
20 Defendants' Motion (Dkt. # 16).

21 **I. BACKGROUND**

22 Plaintiffs Elena Brown and Daniil Fedoruk bring this action pursuant to § 10(b)
23 of the Administrative Procedures Act ("APA"), 5 U.S.C. § 702, *et seq.*, seeking review
24 of Defendant U.S. Citizenship and Immigration Services' ("USCIS") decision denying

25 ¹ On March 31, 2017, James McCament became Acting Director of U.S. Citizenship
26 and Immigration Services, automatically substituting for Lori Scialabba, former Acting
Director, as a party in accordance with Federal Rule of Civil Procedure 25(d). On January 20,
2017, John F. Kelly was sworn in as Secretary of the U.S. Department of Homeland Security,
automatically substituting for Jeh Johnson, former Secretary, as a party in accordance with
Federal Rule of Civil Procedure 25(d).

1 Brown's petition to classify Fedoruk, the beneficiary, as an immediate relative child
2 under 8 U.S.C. §§ 1101(b)(1) and 1151(b)(2)(A)(i).

3 **A. Factual Background**

4 Fedoruk, a native of Russia, was born on June 17, 1993². Dkt. # 11 at 248-50.
5 Fedoruk's biological parents are Konstantin Fedoruk and Nataliya Fedoruk. *Id.*
6 Nataliya Fedoruk is also know as Natalia Robinson. *Id.* at 211. Brown is the paternal
7 aunt of Fedoruk. *Id.* at 237.

8 On June 27, 2007, Fedoruk's biological father consented to the adoption of his
9 son in a document intended to be filed in King County Superior Court. On August 24,
10 2007, Fedoruk and his biological mother completed and signed a B1/B2 visa
11 application for Fedoruk. *Id.* at 285-86. The visa application states that Fedoruk
12 intended to visit his grandparents and Brown in Kent, Washington for a period of one
13 month. *Id.* On September 26, 2007, Fedoruk was issued a B1/B2 visa. *Id.* at 247.

14 On April 16, 2008, Fedoruk's biological mother signed a "Consent of
15 Temporary Guardian," giving temporary guardianship of Fedoruk to Brown for the
16 period of April 1, 2008 to April 1, 2011. *Id.* at 66-68. The "Consent of Temporary
17 Guardian" indicates that all expenses related to Fedoruk's upbringing were to be paid
18 for by Brown. *Id.* Two days later, Fedoruk was admitted to the United States with an
19 authorized period of stay as a non-immigrant visitor until October 17, 2008. *Id.* at
20 247. He was 14 years old at that time. *Id.* Brown agreed to the terms of the "Consent
21 of Temporary Guardian" and signed the document on April 19, 2008, the day after
22 Fedoruk arrived in the United States. *Id.* On July 3, 2008, Fedoruk's biological
23 mother consented to the adoption of her son in a document intended to be filed in King
24 County Superior Court. *Id.* at 47-53.

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² Plaintiffs' request that the Court take judicial notice of the administrative record
relevant to this case (Dkt. # 11) is granted.

1 On July 16, 2008, Brown filed a petition to adopt Fedoruk in the King County
2 Superior Court. He was 15 years old when the petition was filed. *Id.* at 78-85. On
3 September 10, 2008, the King County Family Court received an anonymous call
4 alleging that the adoption of “Danny or Daniel” by “Yelena or Elena Brown” was
5 fraudulent and that “the child came to visit his aunt and now he is not returning back to
6 his mother.” *Id.* at 63. The caller also stated that “the aunt” was going to forge the
7 mother’s name and phone number and that the child’s birth father may be cooperating
8 with this fraudulent adoption. *Id.* The King County Family Court then attempted to
9 contact Fedoruk’s biological mother but was unable to confirm her consent to the
10 adoption. *Id.* Plaintiffs allege that Fedoruk’s biological mother suffers from mental
11 illness and attempted to “sabotage” his adoption and refused to speak with the
12 adoption case worker as a result of this illness. Plaintiffs further allege that Fedoruk’s
13 biological mother stopped having any contact with either Plaintiff in 2009. Dkt. # 15.

14 On March 16, 2011, Brown filed a Petition for Termination of Parent-Child
15 Relationship in the Superior Court of Washington. *Id.* at 82-85. The petition alleges
16 that Fedoruk’s biological mother would not consent to the adoption but also would not
17 provide Fedoruk with any support as his mother. *Id.* On April 25, 2011, when
18 Fedoruk was 17 years old, the Washington Superior Court entered an order
19 terminating Fedoruk’s biological mother’s parental rights. *Id.* at 91-92. On August
20 30, 2011, Brown moved that the Washington Superior Court “enter the adoption
21 decree *nunc pro tunc* as of one day prior to the adoptee’s 16th birthday (June 16, 2009)
22 so that [Brown] may be allowed to file an immigration petition for him as [her]
23 adopted son.” *Id.* at 80. On September 2, 2011, a Commissioner of the Superior Court
24 of the State of Washington issued a Decree of Adoption, granting Brown’s petition to
25 adopt Fedoruk. On the date the adoption was finalized, Fedoruk was 18 years old. *Id.*
26 at 75-76. On the final page of the Decree, the Commissioner added a handwritten

1 notation “Nunc Pro Tunc June 16, 2009,” which is the day before Fedoruk turned 16
2 years of age. *Id.*

3 **B. Procedural Background**

4 On October 11, 2011, Brown filed a Form I-130, Petition for Alien Relative, on
5 behalf of Fedoruk. *Id.* at 242-284. On November 19, 2012, USCIS denied the petition
6 because Fedoruk did not qualify as a child because he was not under the age of 16
7 years old when the adoption was finalized. *Id.* at 200-201. On December 14, 2012,
8 Brown appealed the decision to the Board of Immigration Appeals (“BIA”). *Id.* at
9 177. The BIA then dismissed the appeal. *Id.* at 119.

10 On August 4, 2014, Plaintiffs filed a case in this District, seeking review of the
11 USCIS and the BIA’s decisions. *See Brown v. DHS*, 2:14-cv-1184-JCC (W.D.
12 Wash.). The parties then agreed that the USCIS would seek remand of the petition
13 from the BIA in order to supplement the record before the USCIS and voluntarily
14 dismissed the case. *Id.* On February 26, 2015, the USCIS filed a motion with BIA to
15 re-open and remand Fedoruk’s Form I-130 proceedings to the USCIS for further
16 processing. *Id.* at 105-116. The USCIS then sent Brown a Request for Evidence
17 (“RFE”) regarding Fedoruk’s adoption. *Id.* at 95-99. On October 7, 2015, the USCIS
18 issued a Notice of Intent to Deny (“NOID”) the petition and gave Brown the
19 opportunity to respond to a newly issued decision from the BIA, *Matter of Huang*, 26
20 I. & N. Dec. 627 (BIA 2015) (“*Huang*”). *Id.* 32-22.

21 After receiving Brown’s response, the USCIS denied her petition on February
22 11, 2016, and sought certification of the decision from the BIA. *Id.* at 19-26. On
23 September 29, 2016, the BIA adopted and affirmed the USCIS decision. *Id.* at 1-9.
24 On October 29, 2016, Plaintiffs filed this action, seeking review of the denial of
25 Brown’s petition. Dkt. # 1. Plaintiffs argue that the BIA improperly applied the
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1 decision in *Huang* to Plaintiffs' case and failed to "promote the clear, unambiguous
2 goals of the INA." Dkt. # 15.

3 **II. LEGAL STANDARD**

4 Summary judgment is appropriate if there is no genuine dispute as to any
5 material fact and the moving party is entitled to judgment as a matter of law. Fed. R.
6 Civ. P. 56(a). In the context of a case where a party is seeking review of an
7 administrative decision, "[a] district court is not required to resolve any factual issues
8 when reviewing administrative proceedings." *Occidental Eng'g Co. v. INS*, 753 F.2d
9 766, 769 (9th Cir.1985). "Instead, the district court's function is to determine whether
10 or not as a matter of law the evidence in the administrative record permitted the
11 agency to make the decision it did." *Boyang, Ltd. v. I.N.S.*, 67 F.3d 305 (9th Cir.
12 1995). Accordingly, summary judgment "is an appropriate mechanism for deciding
13 the legal question of whether the agency could reasonably have found the facts as it
14 did." *Occidental Eng'g Co.*, 753 F.2d at 770.

15 Under the Administrative Procedure Act, a district court may review and set
16 aside a final agency action if it was "arbitrary, capricious, an abuse of discretion, or
17 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). "Agency action should
18 be overturned only when the agency has 'relied on factors which Congress has not
19 intended it to consider, entirely failed to consider an important aspect of the problem,
20 offered an explanation for its decision that runs counter to the evidence before the
21 agency, or is so implausible that it could not be ascribed to a difference in view or the
22 product of agency expertise.'" *Safari Aviation Inc. v. Garvey*, 300 F.3d 1144, 1150
23 (9th Cir. 2002) (quoting *Pac. Coast Fed'n of Fishermen's Ass'ns, Inc. v. Nat'l Marine*
24 *Fisheries Serv.*, 265 F.3d 1028, 1034 (9th Cir. 2001)). It is an abuse of discretion if
25 the agency acts as if "there is no evidence to support the decision or if the decision was
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1 based on an improper understanding of the law.” *Kazarian v. U.S. Citizenship and*
2 *Immigration Services*, 596 F.3d 1115, 1118 (9th Cir. 2010) (internal citations omitted).

3 The standard is “highly deferential, presuming the agency action to be valid.”
4 *Kern County Farm Bureau v. Allen*, 450 F.3d 1072, 1076 (9th Cir. 2006). The
5 reviewing court must give the agency's interpretation of its own regulations
6 “substantial deference and must give such interpretation controlling weight unless
7 doing so is inconsistent with the regulation or plainly erroneous.” *Independent*
8 *Acceptance Co. v. California*, 204 F.3d 1247, 1251 (9th Cir. 2000).

9 **III. DISCUSSION**

10 For a child of a U.S. citizen to obtain lawful permanent resident status, the U.S.
11 citizen parent must file a Form I-130, Petition for Alien Relative, on behalf of the
12 beneficiary to classify the child as an “immediate relative.” 8 U.S.C. §
13 1154(a)(1)(A)(i). Under 8 U.S.C. § 1151(b)(2)(A)(i), an “immediate relative” is
14 defined as “the children, spouses, and parents of a citizen of the United States.” A
15 “child” is defined as “an unmarried person under twenty-one years of age who is . . .
16 adopted while under the age of sixteen years if the child has been in the legal custody
17 of, and has resided with, the adopting parent or parents for at least two years.”
18 8 U.S.C. § 1101(b)(1)(E)(i).

19 Previous to the decision in *Huang*, the BIA applied a strict interpretation of the
20 language in 8 U.S.C. § 1101(b)(1)(E)(i), holding that “[t]he act of adoption must occur
21 before the child attains the age [specified in the Immigration and Nationality Act].”
22 *See Matter of Cariaga*, 15 I. & N. Dec. 716, 717 (BIA 1976). The BIA rejected the
23 contention that “a decree of adoption is fully effective as of the date entered *nunc pro*
24 *tunc* and is entitled to recognition for immigration purposes.” *See Matter of Drigo*, 18
25 I. & N. Dec. 223, 224 (BIA 1982). On July 8, 2015, the BIA modified its stance in
26 *Huang*, noting that the previous rule that the BIA had applied was “too limiting in that

1 it does not allow us to adequately consider the interests of family unity.” *Huang*, 26 I.
2 & N. Dec. at 631. Pursuant to holding in *Huang* the BIA will recognize a *nunc pro*
3 *tunc* order relating to an adoption “where the adoption petition was filed before the
4 beneficiary's 16th birthday, the State in which the adoption was entered expressly
5 permits an adoption decree to be dated retroactively, and the State court entered such a
6 decree consistent with that authority.” *Id.*

7 In the instant case, the USCIS applied the holding in *Huang* and found that,
8 although Brown’s petition to adopt Fedoruk was filed before Fedoruk turned 16 years
9 old, there was no authority in Washington state law that expressly permits an adoption
10 decree to be entered *nunc pro tunc*. The USCIS also noted that state case law
11 established that the equitable remedy of *nunc pro tunc* was a tool to “correct [] the
12 record so that the record accurately reflects the court’s decision,” rather than “remedy
13 inaction.” Dkt. # 11 at 19-26.

14 **A. Administrative Procedure Act Claim**

15 Defendants, the Department of Homeland Security; USCIS; James McCament,
16 Acting Director of U.S. Citizenship and Immigration Services; John F. Kelly,
17 Secretary of the U.S. Department of Homeland Security; and Kathy Baran, USCIS
18 California Service Center Director, argue that the USCIS’s and BIA’s interpretation of
19 8 U.S.C. § 1101(b)(1)(e) is entitled to *Chevron* deference and should be upheld.
20 Following the two-step approach of the Supreme Court in *Chevron, U.S.A., Inc. v.*
21 *Natural Res. Def. Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984),
22 the Court must first determine whether Congress has directly spoken to the precise
23 question at issue. *See Humane Soc. of U.S. v. Locke*, 626 F.3d 1040, 1054 (9th Cir.
24 2010). If the statute is silent or ambiguous with respect to the specific issue, the Court
25 must then determine whether the agency’s answer is based on a permissible
26 construction of the statute. *Id.* “If a statute is ambiguous, and if the implementing

1 agency's construction is reasonable, *Chevron* requires a federal court to accept the
2 agency's construction of the statute, even if the agency's reading differs from what the
3 court believes is the best statutory interpretation." *Id.*; *see also Chevron, U.S.A., Inc.*
4 *v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694
5 (1984).

6 To be considered a "child" for purposes of derivative citizenship under 8 U.S.C.
7 § 1431, an adopted child must be "adopted while under the age of sixteen years."
8 8 U.S.C. § 1101(b)(1)(E)(i). However, the statute does not say whether the term
9 "adopted" refers to the effective date of an adoption, or whether the term refers to the
10 date that the act of adoption occurred. Therefore, the statute is ambiguous with respect
11 to the specific issue of whether the term "adoption" as used in the statute requires the
12 adoption decree to be issued before the child reaches the age of 16 and the Court must
13 proceed to the second step of the *Chevron* analysis.

14 At step two of the *Chevron* analysis, the Court must determine whether the
15 BIA's interpretation of 8 U.S.C. § 1101(b)(1)(E)(i) is reasonable. Defendants argue
16 that *Huang* is a reasonable interpretation of the statute because it balances the
17 legitimate concern of deterring adoptions entered only to circumvent immigration
18 restrictions with the desire to preserve family unity. Defendants also argue that while
19 state courts typically have authority over domestic relations such as marriage and
20 family law, immigration law exists independently of these laws and requires a separate
21 evaluation of relationships that "can be used to perpetrate immigration fraud." Dkt. #
22 16.

23 At issue is the BIA's construction of the word "adopted" in § 1101(b)(1)(e)(i).
24 While it is true that federal immigration law exists independently of laws governing
25 domestic relations, "where the term in question involves a legal relationship that is
26 created by state or foreign law, the court must begin its analysis by looking to that

1 law.” *Minasyan v. Gonzales*, 401 F.3d 1069, 1076 (9th Cir. 2005). This is not a
2 situation, as Defendants allege, where the question at issue is a result of a conflict
3 between federal and state law. This matter is more accurately described as a question
4 of whether a federal agency is giving due deference to state law in an area of law that
5 is typically the province of the States; there is no federal law of domestic relations.
6 *See De Sylva v. Ballentine*, 351 U.S. 570, 580, 76 S.Ct. 974, 100 L.Ed. 1415 (1956).
7 Further, while the Supreme Court has held that “scope of a federal right is, of course, a
8 federal question, ... that does not mean that its content is not to be determined by state,
9 rather than federal law.” *Id.* On September 2, 2011, a Commissioner of the Superior
10 Court of the State of Washington issued a Decree of Adoption, *nunc pro tunc*,
11 modifying the effective date of the decree to June 16, 2009. Therefore, Fedoruk was
12 adopted prior to his 16th birthday as a matter of Washington law.

13 There is a strong federal policy favoring federal recognition of valid state court
14 judgments. *See Solid Waste Agency of N. Cook Cty. v. U.S. Army Corps of Eng’rs*,
15 531 U.S. 159, 172–73, 121 S.Ct. 675, 148 L.Ed.2d 576 (2001) (explaining that the
16 courts expect a “clear indication” of congressional intent when an “administrative
17 interpretation alters the federal-state framework by permitting federal encroachment
18 upon a traditional state power”). Further, it is well understood that “state courts
19 exercise full authority over the judicial act of adoption.” *See Ojo v. Lynch*, 813 F.3d
20 533, 539 (4th Cir. 2016) (citing to *Adoptive Couple v. Baby Girl*, 570 U.S. 637, 656,
21 133 S. Ct. 2552, 2565, 186 L. Ed. 2d 729 (2013)). The BIA attempted to address this
22 concern in *Huang* by instituting its requirement that the State in which the adoption
23 was entered expressly permit an adoption decree to be dated retroactively in order for a
24 *nunc pro tunc* decree to be recognized. *Huang*, 26 I & N. Dec. at 631. The BIA
25 specifically states that they “cannot give full faith and credit to a State adoption
26 decree” without regard to whether state law specifically allows an adoption to be dated

1 retroactively. Therefore, this prong of the *Huang* test prong amounts to an assessment
2 by a federal agency of whether a state court properly applied that state’s law. This
3 Court agrees with the only Circuit Court to analyze the holding in *Huang*³, that if
4 Congress “sought to place the interpretation [of the term adopted] in the hands of an
5 administrative agency, such as the BIA, Congress would have made that intention
6 ‘unmistakably clear.’” *Ojo*, 813 F.3d at 540. Congress did not do so here.

7 Defendants’ argument that *Huang* is a reasonable interpretation of the statute
8 because it balances the preservation of family unity with fraud prevention is similarly
9 unpersuasive. While the rule in *Huang* no longer discounts all *nunc pro tunc* adoption
10 decrees issued after the child reaches the age of 16, it now only recognizes such
11 adoption decrees after it determines that state law allows *nunc pro tunc* adoption
12 decrees and, in cases where a decree was issued, that the state court acted consistently
13 with that authority. *Huang*, 26 I & N. Dec. at 631. Thus, the BIA attempts to address
14 fraudulent adoptions by paring down the total amount of allowed *nunc pro tunc*
15 adoption decrees by supplanting the state court’s interpretation of state law with its
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17 ³ In *Amponsah v. Holder*, 709 F.3d 1318, 1319 (9th Cir.), *opinion withdrawn*,
18 736 F.3d 1172 (9th Cir. 2013), the Ninth Circuit held that BIA’s “blanket rule against
19 recognizing state courts’ *nunc pro tunc* adoption decrees” as set out in *Cariaga* was an
20 impermissible construction of §1101(b)(1)(E)(i) under *Chevron* because it gave “little
21 or no weight to the federal policy of keeping families together, fails to afford
22 deference to valid state court judgments in an area of the law—domestic relations—
23 that is primarily a matter of state concern and addresses the possibility of immigration
24 fraud through a sweeping, blanket rule rather than considering the validity of *nunc pro*
25 *tunc* adoption decrees on a case-by-case basis.” *Id.* After the *Amponsah* opinion was
26 issued, the Ninth Circuit withdrew it after finding out that the BIA was considering
whether to modify or overrule *Cariaga*. After the decision in *Huang*, the Ninth Circuit
declined to determine whether the BIA’s new rule was a permissible construction of
the statute under *Chevron*, and remanded the case back to the BIA. *Amponsah v.*
Lynch, 627 F. App’x 592, 594 (9th Cir. 2015). In light of the Ninth Circuit’s
subsequent withdrawal of its initial decision in *Amponsah*, its’ holding is not
dispositive, but its reasoning is persuasive for the purposes of this Motion.

1 own interpretation of state law, and not by determining whether there was actually a
2 valid adoption. This is not a reasonable interpretation of the statute. Defendants do
3 not provide persuasive argument that this new rule acts as a tool to prevent fraud such
4 that it should be emphasized over the goal of preservation of family unity. Dkt. # 16 at
5 15. The Court finds that the BIA's interpretation of 8 U.S.C. § 1101(b)(1)(E)(i) is not
6 entitled to deference and as a result, the BIA abused its discretion in denying Brown's
7 petition.

8 **B. Equal Protection Claim**

9 Plaintiffs also argue that Defendants' application of the decision in *Huang*
10 violates the equal protection guarantee of the U.S. Constitution because it treats
11 similarly situated persons differently by differentiating between adoptees that live in
12 States that have express statutory authority for backdating adoption decrees and
13 adoptees whose adoptions have been backdated based on their respective State's
14 application of the common law concept of *nunc pro tunc* to adoption decrees.

15 It is undisputed that the Due Process Clause of the Fifth Amendment guarantees
16 individuals equal protection under the law. *Dillingham v. INS*, 267 F.3d 996, 1004
17 (9th Cir. 2001). Where, as here, the classification between "types" of adoptees is not
18 based on membership in a protected class and does not burden a fundamental
19 constitutional right, the proper standard of review is rational basis scrutiny. *See*
20 *Ursack Inc. v. Sierra Interagency Black Bear Grp.*, 639 F.3d 949, 958 (9th Cir. 2011);
21 *see also Alvarenga-Villalobos v. Ashcroft*, 271 F.3d 1169, 1174 (9th Cir. 2001)
22 ("Distinctions between different classes of aliens in the immigration context are
23 subject to rational basis review and must be upheld if they are rationally related to a
24 legitimate government purpose."). Therefore, the Court must consider whether the
25 BIA's interpretation of 8 U.S.C. § 1101(b)(1)(E)(i) in *Huang* is rationally related to a
26 legitimate government purpose. As no suspect class is involved and the only issue is

1 whether Defendants' interpretation of the statute is rational, Plaintiff's equal protection
2 argument can be "folded into the APA argument". *Ursack Inc.*, 639 F.3d at 955, 958
3 (noting that the standard of review under the APA is identical to rational basis
4 scrutiny).

5 As noted above, the BIA's holding in *Huang* is not rationally related to the
6 legitimate government purpose of preventing fraudulent adoptions. Defendants argue
7 that *Huang* seeks to deter adoptions that are back-dated simply to confer an
8 immigration benefit, but does not provide persuasive argument that the interpretation
9 and rules set out that decision are rationally related to that purpose. *Huang* merely
10 attempts to decrease the number of adoptions that are backdated *nunc pro tunc*; it does
11 not take into account whether there is actual fraud or the individual circumstances of
12 each case.

13 Fedoruk's circumstances are a perfect example of a situation where the BIA's
14 interpretation of the statute minimizes the importance of family unity in favor of a rule
15 that does not further the legitimate purpose of fraud prevention. Fedoruk's biological
16 parents are not in contact with Plaintiffs and provide no support. Brown first filed a
17 petition to adopt Fedoruk well before he was 16 years old. Due to circumstances that
18 were out of Plaintiffs' control, they were unable to finalize this adoption until 2011.
19 Yet, Brown's Form I-130 Petition was still denied. The Court notes that the
20 conclusions reached in this Order are in keeping with the legislative history of the
21 Immigration and Nationality Act. While Congress was concerned about the use of
22 fraudulent adoption to gain immigration benefits, they provided children with liberal
23 treatment because they recognized the importance of family unity. *See S. Rept. 1515,*
24 *81st Cong., 2d Sess. 468.* In this case, the BIA's treatment of Fedoruk is not in
25 keeping with history behind the statute at issue and the liberal treatment afforded to
26 children. Therefore, Plaintiff's Motion for Summary Judgment is **GRANTED**.

1 **IV. CONCLUSION**

2 For all the foregoing reasons, Plaintiff’s Motion for Summary Judgment (Dkt. #
3 15) is **GRANTED** and Defendants’ Motion for Summary Judgment is **DENIED** (Dkt.
4 # 16). Accordingly, the Court **GRANTS** Plaintiffs’ petition for review and
5 **REMANDS** this matter for further proceedings. Defendants are **ORDERED** to give
6 deference to the state determination as to the effective date of Plaintiff Fedoruk’s
7 adoption.

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9 Dated this 7th day of March, 2018.

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11 

12 The Honorable Richard A. Jones
13 United States District Judge