



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[Redacted]

PUBLIC COPY

Date: NOV 15 2000

File: [Redacted]

Office: Los Angeles

IN RE: Petitioner:
Beneficiary:

[Redacted]

Application: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(1)(F)

IN BEHALF OF APPLICANT: Self-represented

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The visa petition to classify the beneficiary as an immediate relative was found not to be readily approvable by the District Director, Los Angeles, California. Therefore, the district director properly served the petitioner with notice of intent to deny the visa petition, and his reasons therefore, and ultimately denied the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The Petition to Classify Orphan as an Immediate Relative (Form I-600) was filed on June 11, 1998. The petitioner is a 43 year-old married citizen of the United States. The beneficiary, who at this time is four years old, was born in San Pedro, Laguna, Phillipines, on August 9, 1996. The beneficiary's biological mother, [REDACTED] and biological father, [REDACTED] have been identified in the record of proceeding and are still living. The district director denied the petition after determining that the beneficiary does not meet the statutory definition of "orphan" because the petitioner had not established that the beneficiary has only a sole parent as defined by the regulations, or that the sole parent is incapable of providing proper care.

On appeal, the petitioner requests additional time in which to submit documentation. The appeal was filed on July 2, 1999. As of this date, nothing further has been received.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On appeal, the petitioner expresses disagreement with the decision of the director, but fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. As the petitioner has provided no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. 103.3(a)(1)(v).

As always in these proceedings, the burden of proof is on the petitioner to establish the beneficiary's eligibility for classification as an orphan. Matter of Annang, 14 I&N Dec. 502 (BIA 1973); Matter of Brantigan, 11 I&N 493 (BIA 1966); Matter of Yee, 11 I&N Dec. 27 (BIA 1964); Section 291 of the Act, 8 U.S.C. 1361.

ORDER: The appeal is dismissed.