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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 MASS, 3/F
Washington, D.C. 20536

[redacted]

SEP 29 2003

File: [redacted] Office: BALTIMORE, MARYLAND Date:

IN RE: Applicant:
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)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that 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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Baltimore, Maryland District Director revoked approval of the petition to classify orphan as an immediate relative. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be dismissed. The prior decision of the AAO will be affirmed.

The petitioner filed the Petition to Classify Orphan as an Immediate Relative (Form I-600). The petitioner is a 48-year-old married citizen of the United States. The beneficiary is 3 years old at the present time and was born in Taiwan on July 28, 1999.

The district director revoked approval of the petition, finding that the petitioner had failed to establish that the beneficiary is an orphan as defined in the Act.

On motion, the petitioner submits a two-page letter and additional documentation.

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. In order to prevail on a motion to reopen, the petitioner must establish that the new facts and or evidence presented were unavailable at the time the prior decision was issued.

In the instant case, the petitioner asserts that it has "new information" in a letter written by the orphanage director in Taiwan. In review, the petitioner failed to state new facts.

8 C.F.R. § 103.5(a)(3) states, in pertinent part, that:

> A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Bureau policy.

In review, the petitioner did not state reasons for reconsideration supported by precedent decisions.

8 C.F.R. § 103.5(a)(4) states, in part, that "[a] motion that does not meet applicable requirements shall be dismissed." Inasmuch as the petitioner failed to support its reasons for reconsideration with any pertinent precedent decisions, the motion must be dismissed.

In visa petition proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The motion is dismissed.