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U.S. Department of Homeland Security  
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Washington, DC 20536

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U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE:

[Redacted]

Office: HO CHI MINH CITY

Date: FEB 18 2004

IN RE:

Petitioner:

Beneficiary:

[Redacted]

Petition: 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 PETITIONER:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Officer-in-Charge of the Ho Chi Minh City initially approved the immigrant visa petition and subsequently revoked approval of the preference visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The petitioner subsequently filed a motion to reopen the proceeding. The matter is now before the AAO. The motion will be dismissed.

Counsel for the petitioner filed a motion to reopen on December 19, 2001. In a letter dated May 31, 2002, substituted counsel for the petitioner requested an extension of six months to submit additional evidence. The request was granted. More than one year has lapsed and counsel for the petitioner has failed to submit additional evidence.

The regulation at 8 C.F.R. § 103.5(a)(2) states that a motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

On motion, the petitioner fails to state the new facts and fails to submit new evidence. As the petitioner has provided no new facts, the motion will be dismissed in accordance with 8 C.F.R. § 103.5(a)(4).

In visa petition proceedings, the burden of proof remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. In accordance with 8 C.F.R. § 103.5(a)(4), the motion will be dismissed.

**ORDER:** The motion is dismissed.