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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]

File: [Redacted] Office: SAN ANTONIO, TEXAS Date: 30 SEP 2002

IN RE: Applicant: [Redacted]

Application: Application for Advance Processing of Orphan Petition (Form I-600A) Pursuant to 8 C.F.R. 204.3(c)

IN BEHALF OF APPLICANT:

**PUBLIC COPY**

SELF-REPRESENTED

**INSTRUCTIONS:**

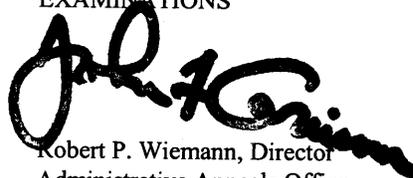
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the San Antonio, Texas district office denied the Application for Advance Processing of Orphan Petition (Form I-600A) and the matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant filed the Form I-600A with the director on November 14, 2001. The applicant is a 52-year-old married citizen of the United States who, together with his spouse, is seeking to adopt a child from Guatemala.

The director denied the application because the applicant failed to respond to the director's request for additional information regarding prior arrests.

On appeal, the applicant submits a statement.

8 C.F.R. 204.3(a) states, in pertinent part:

- (2) *Overview.* . . . Petitioning for an orphan involves two distinct determinations. The first determination concerns the advanced processing application which focuses on the ability of the prospective adoptive parents to provide a proper home environment and on their suitability as parents. This determination, based primarily on a home study and fingerprint checks, is essential for the protection of the orphan. . . .

On January 25, 2002, the director informed the applicant that a mandatory, confidential investigation of the applicant's and the applicant's wife's identities revealed that each individual had a history of arrests and/or convictions. The director, therefore, instructed the applicant to obtain and submit the police arrest reports and the dispositions of the charges. Additionally, the director informed the applicant that the home study preparer was required to perform a new home study evaluation that conformed to the requirement in 8 C.F.R. 204.3(e)(2)(iii)(B).

In response, the applicant and his wife each submitted an affidavit regarding their histories of arrests, and documents from the applicable county courts. The director denied the application on April 1, 2002 because the applicant's wife only submitted information regarding two arrests, when the investigation of her identity revealed that she had been arrested three times. The director also denied the application because neither the applicant nor his wife submitted the police narrative of the arrest reports that the director requested.

On the appeal that was filed on April 16, 2002, the applicant states that he did not understand that narrative reports would be available for the arrests until he consulted an attorney. The

applicant requests additional time to supplement the record. As of this date, however, no additional evidence has been received into the record.

The applicant has not presented any new evidence on appeal that would result in the reversal of the director's decision to deny the application. The applicant has not presented the evidence that the director previously requested regarding a full disclosure of the applicant's wife's prior arrests. More importantly, however, the applicant has not presented to the Service an updated home study report.

8 C.F.R. 204.3(e)(2)(iii)(B) states, in pertinent part:

*Information concerning history of abuse and/or violence.* If the petitioner and/or spouse, if married, disclose(s) any history of abuse and/or violence as set forth in paragraph (e)(2)(iii)(A) of this section, or if, in the absence of such disclosure, the home study preparer becomes aware of any of the foregoing, the home study report must contain an evaluation of the suitability of the home for adoptive placement of an orphan in light of this history. This evaluation must include information concerning all arrests or convictions or history of substance abuse, sexual or child abuse, and/or domestic violence and the date of each occurrence. A certified copy of the documentation showing the final disposition of each incident, which resulted in arrest, indictment, conviction, and/or any other judicial or administrative action, must accompany the home study. Additionally, the prospective adoptive parent must submit a signed statement giving details including mitigating circumstances, if any, about each incident. The home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

While the director informed the applicant that the home study preparer needed to update the home study report to conform to the regulation cited above, no such report is included in the record. Without the updated home study report and a full disclosure regarding the prior arrests, the applicant has not overcome the director's objections.

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 appeal is dismissed.