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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
*Administrative Appeals Office (AAO)*  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: **NOV 05 2013** OFFICE: NATIONAL BENEFITS CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:

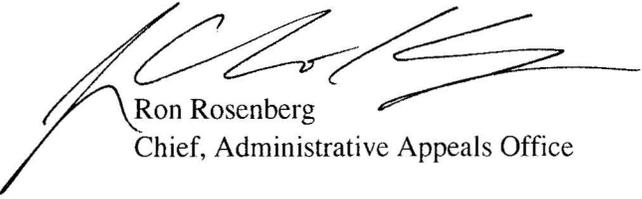
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the National Benefits Center (“the director”) denied the Petition to Classify Orphan as an Immediate Relative (Form I-600) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner seeks classification of an orphan as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F)(i). The director denied the Form I-600 petition after he revoked the approval of the petitioner’s Application for Advance Processing of Orphan Petition (Form I-600A).

*Applicable Law*

The petitioner seeks to classify a child from the Ukraine as an immediate relative pursuant to section 101(b)(1)(F)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F)(i), which defines an orphan, in pertinent part, as:

a child, under the age of sixteen at the time a petition is filed . . . who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption. . . . *Provided*, That the [Secretary of the Department of Homeland Security] is satisfied that proper care will be furnished the child if admitted to the United States[.]

The regulation at 8 C.F.R. § 204.3(a) provides, in pertinent part, the following on eligibility for immigrant classification of alien orphans:

(1) [A] child who meets the definition of orphan contained in section 101(b)(1)(F) of the Act is eligible for classification as the immediate relative of a U.S. citizen if:

(i) The U.S. citizen seeking the child's immigration can document that the citizen (and his or her spouse, if any) are capable of providing, and will provide, proper care for an alien orphan; and

(ii) The child is an orphan under section 101(b)(1)(F) of the Act.

A U.S. citizen may submit the documentation necessary for each of these determinations separately or at one time, depending on when the orphan is identified.

The regulation at 8 C.F.R. § 204.3(h)(14) provides the following on the revocation of the approval of an advanced processing application or an orphan petition:

(14) *Revocation.* The approval of an advanced processing application or an orphan petition shall be automatically revoked in accordance with § 205.1 of this chapter, if an applicable reason exists. The approval of an advanced processing application or an orphan petition shall

be revoked if the director becomes aware of information that would have resulted in denial had it been known at the time of adjudication. Such a revocation or any other revocation on notice shall be made in accordance with § 205.2 of this chapter.

*Facts and Procedural History*

The petitioner and his wife are 35-year-old U.S. citizens who seek to classify the beneficiary, a citizen of Ukraine, as an orphan. The petitioner filed a Form I-600A application on May 4, 2012, in which he indicated that he and his wife planned to adopt three children. The application was initially approved on June 5, 2012. The petitioner filed the instant Form I-600 petition with USCIS on January 31, 2013.

On April 23, 2013, the director revoked the approval of the Form I-600A application after providing the petitioner with notice and opportunities to respond. The petitioner timely appealed the decision to the AAO. The AAO has dismissed the appeal in a separate decision.

On April 24, 2013, the director denied the instant Form I-600 based on the revocation of the approval of the petitioner's Form I-600A. The petitioner filed a timely appeal asserting that he is appealing the denial of the Form I-600 because he has appealed the denial of the Form I-600A. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3<sup>rd</sup> Cir. 2004).

*Analysis*

The purpose of the Application for Advance Processing of an Orphan Petition (Form I-600A) is to ensure that the petitioner is capable of providing, and will provide, proper care for an orphan. *See* 8 C.F.R. § 204.3(a)(1)(i), 8 C.F.R. § 204.3(h)(2). The approval of a Form I-600 requires the approval of the Form I-600A to first establish that the petitioner and his or her spouse, if any, will provide proper parental care to the beneficiary. *See* Section 101(b)(1)(F)(i) of the Act, 8 U.S.C. § 1101(b)(1)(F)(i); 8 C.F.R. 204.3(a)(1)(i). As the approval of the petitioner's Form I-600A has been revoked, he has not established that he and his wife will provide proper care to the beneficiary, and his Form I-600 petition must be denied pursuant to section 101(b)(1)(F)(i) of the Act.

*Conclusion*

Because the approval of the Form I-600A has been revoked based on the petitioner's failure to establish that he and his wife are capable of providing proper care to an orphan, the petitioner's Form I-600 for immigrant classification on behalf of the beneficiary must be denied.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed. The petition remains denied.