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U.S. Citizenship
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FILE: [Redacted] Office: ATLANTA, GA Date: OCT 24 2005

IN RE: Petitioner: [Redacted]
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 APPLICANT:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The District Director, Atlanta, Georgia denied the immigrant visa petition. The matter was appealed to the Administrative Appeals Office (AAO) and subsequently remanded to the district director. The matter is now certified to the AAO. The district director's decision will be affirmed and the appeal will be summarily dismissed.

The petitioner, a forty-two year old married citizen of the United States, filed the Petition to Classify Orphan as an Immediate Relative (I-600 petition) on December 24, 2002. The beneficiary was born on December 11, 1986 in India, and she is presently eighteen years old.

On April 12, 2004, the district director sent a Notice of Intent to Deny (NOID) the I-600 petition, to the petitioner at his address of record, based on a finding that the beneficiary was sixteen years old when the I-600 petition was filed and that she therefore did not meet the age requirements for classification as an "orphan", as set forth in section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F). The NOID was returned to the district director as undeliverable. The district director sent a final denial decision to the petitioner at his address of record on September 1, 2004, based on the petitioner's failure to provide any evidence to overcome the decision made in the NOID. The final denial decision was returned to the district director as undeliverable. On appeal, the AAO found that the district director had failed to send the NOID and final denial decisions to the petitioner's attorney of record. The AAO subsequently remanded the matter to the district director for reissuance of the NOID and the final denial decision, to be sent to the petitioner's attorney and to the petitioner at his new address.

The record contains signed, certified mail receipt evidence reflecting that on January 13, 2005, the district director sent a Notice of Intent to Deny the I-600 petition, to the petitioner's attorney and to the petitioner at his new address, based on a finding that the beneficiary was sixteen years old when the I-600 petition was filed, and thus did not meet age requirements for classification as an "orphan", and based on the petitioner's failure to provide supporting documentation including a home study, an irrevocable release for emigration and adoption of the beneficiary from the sole surviving parent, and evidence that the sole surviving parent was incapable of providing for the basic needs of the beneficiary according to the local standards of the foreign sending country. On April 8, 2005, the district director sent a final denial decision to the petitioner at his new address and to the petitioner's attorney, and certified the decision to the AAO, based on a finding that the petitioner had failed to provide any additional response or evidence to overcome the NOID.

In her initial September 30, 2004, appeal to the AAO, counsel asserted that she would have supplied the requested information and evidence to the district director if she had received the April 12, 2004, NOID and the district director's September 1, 2004, final denial decision. Counsel submitted no evidence and made no other assertions or claims in her initial appeal. The record reflects that neither counsel nor the petitioner have responded or submitted any information or evidence to address or overcome the January 13, 2005, NOID or the April 8, 2005, final denial of the petitioner's I-600 petition.

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

(v) 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.

The AAO finds that the petitioner has failed to identify any erroneous conclusion of law or statement of fact on appeal. The appeal will therefore be summarily dismissed.

ORDER: The district director's decision is affirmed and the appeal is summarily dismissed.