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

U.S. Citizenship and Immigration Services

F1

Date: NOV 0 3 2011 Office: NATIONAL BENEFITS CENTER File:

IN RE: Petitioner:
Beneficiary:

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion with the $630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, National Benefits Center (the director), revoked approval of the Petition to Classify Orphan as an Immediate Relative (Form I-600) after properly notifying the petitioner, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary as an orphan pursuant to section 101(b)(1)(F) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(b)(1)(F). The director revoked approval of the petition because the petitioner failed to respond to the director's Notice of Intent to Revoke (NOIR) the petition's approval. On appeal, counsel states: "My client is not appealing on the merits of the case. He is appealing that he has not received the Notice of Intent to Revoke."

Under section 205 of the Act, 8 U.S.C. § 1155, the Secretary of Homeland Security may, at any time, for what she deems to be good and sufficient cause, revoke the approval of any petition approved by her under section 204 of the Act, 8 U.S.C. § 1154. Pursuant to section 204(a) (1)(A)(i) of the Act, a U.S. citizen may petition for an alien who he believes is entitled to immediate relative status under section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i), including, but not limited to, his child as defined at section 101(b)(1) of the Act.[1]

The petitioner filed a Form I-600 on the beneficiary's behalf in May 2008, which U.S. Citizenship and Immigration Services (USCIS) approved on May 14, 2010. On March 22, 2011, the director issued a NOIR to the petitioner based upon information that arose during the beneficiary's interview with a U.S. consular officer in Addis Ababa, Ethiopia. The petitioner failed to respond to the NOIR, and the director revoked approval of the petition on June 14, 2011.

On appeal, counsel states that the petitioner never received the NOIR and requests that the AAO remand the matter to the director. Counsel's request shall not be granted. The director mailed the NOIR to the petitioner's last known address, which has remained the same from the time that the Form I-600 was initially filed in May 2008 until now. Accordingly, there was no procedural defect in the service of the NOIR by routine mail. *See* 8 C.F.R. § 103.5a(a)(1) (routine service is complete upon mailing a copy of the notice by ordinary mail to a person's last known address).

In addition, although counsel states that the petitioner was not afforded an opportunity to respond to the NOIR, the petitioner could have submitted a response as part of his appeal, but has chosen not to do so. As the petitioner has not presented any evidence or argument to demonstrate that the director made any erroneous conclusion of law or statement of fact in his revocation decision, the petitioner's appeal shall be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed. Approval of the petition remains revoked.

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[1] An orphan is defined at section 101(b)(1)(F)(i) of the Act.