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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

[Redacted]

DATE: **JUN 20 2012** OFFICE: GUATEMALA CITY, GUATEMALA

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:

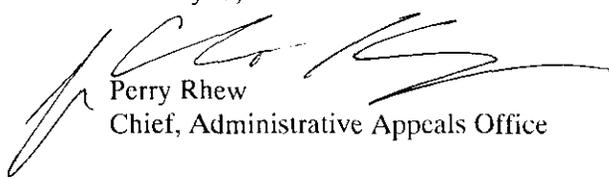
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. Do not file any motion directly with the AAO. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Guatemala City, Guatemala Field Office Director denied the Form I-600, Petition to Classify Orphan as an Immediate Relative. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and affirmed its decision to deny the petition on eight separate occasions in response to subsequent motions to reopen or reconsider. The matter is again before the AAO on a ninth motion to reopen and reconsider. The motion will be dismissed. The petition will remain denied.

The petitioner seeks classification of the beneficiary 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). As the facts and procedural history of this case have been adequately documented in our previous decisions, we will only address the petitioner's current submission on motion, which consists of a statement concerning and documents related to the beneficiary's foster care arrangements in Guatemala. The petitioner also asserts that his repeated filing of motions is to preserve his eligibility as a "grandfathered" case pursuant to U.S. Citizenship and Immigration Services (USCIS) policies and procedures.

The petitioner's submission does not qualify as a motion to reopen or reconsider. A motion to reopen must consist of "new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence." 8 C.F.R. § 103.5(a)(2). A motion to reconsider must, in part, "state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy." 8 C.F.R. § 103.5(a)(3).

The petitioner's motion consists of allegations of the beneficiary's mistreatment by his foster care family and the Guatemalan authorities' unwillingness to intervene in the matter. These are issues over which we have no jurisdiction to review, as they do not relate to the petitioner's eligibility to be classified as an orphan under section 101(b)(1)(F)(i) of the Act. The petitioner does not cite any pertinent precedent decisions to establish that our prior decisions were based on an incorrect application of law or USCIS policy, or provide new facts relating to the beneficiary's eligibility for orphan classification.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The petitioner's present submission fails to meet the requirements of a motion to reopen or reconsider, and the motion shall be dismissed pursuant to 8 C.F.R. § 103.5(a)(4).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The motion is dismissed. The petition remains denied.