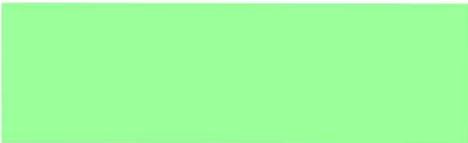




U.S. Citizenship
and Immigration
Services

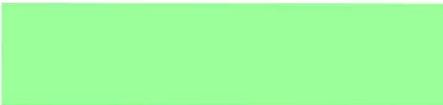
(b)(6)



DATE: **FEB 28 2013** OFFICE: GUATEMALA CITY, GUATEMALA



IN RE: Petitioner:
Beneficiary:



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 in accordance with the instructions on 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,

Ron Rosenberg
Acting 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 nine separate occasions in response to subsequent motions to reopen or reconsider. The matter is again before the AAO on a tenth motion to 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 an affidavit executed by the biological mother stating that she gives her consent to the beneficiary's adoption by the petitioner and his wife. The petitioner again 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 reconsider. 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." In addition, a motion to reconsider must, when filed, establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

Information in the biological mother's affidavit fails to demonstrate that the director's decision to deny the petition was incorrect based upon the evidence in the record at that time. Additionally, the petitioner does not cite any pertinent precedent decisions to establish that any prior decisions were based on an incorrect application of law or USCIS policy.

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 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.