



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **JAN 15 2014** OFFICE: NATIONAL BENEFITS CENTER

[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:
[Redacted]

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

NON-PRECEDENT DECISION

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DISCUSSION: The Director, 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 summarily dismissed.

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), 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 director denied the petition for failure to establish that the beneficiary qualifies for classification as an “orphan” as that term is defined at section 101(b)(1)(F)(i) of the Act. Specifically, the director determined that the petitioner failed to provide: (1) an irrevocable release from the beneficiary’s biological mother; (2) and proof that the beneficiary’s biological mother is incapable of providing proper care for her child.

On appeal, counsel resubmits previously filed evidence and asserts on the Form I-290B (appeal notice) in a one-sentence statement that the beneficiary was abandoned by her birth parents. Counsel indicates on the appeal notice that his brief and/or additional evidence would be submitted to the AAO within 30 days. The appeal notice was filed on August 14, 2013. As of the date of this decision, counsel has not filed a brief or any new evidence.

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. 8 C.F.R. § 103.3(a)(1)(v). In this case, counsel fails to identify any specific, erroneous conclusion of law or statement of fact in the director’s decision. Consequently, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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 summarily dismissed. The petition remains denied.