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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



DATE: **JUL 14 2014** 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)(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 (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

DISCUSSION: The Director of the National Benefits Center (the director) revoked approval of the Petition to Classify Orphan as an Immediate Relative (Form I-600). The matter was appealed to the Administrative Appeals Office (AAO), and the appeal was summarily dismissed. The matter is again before the AAO on a joint motion to reopen and reconsider. The motion is dismissed. The AAO decision, dated November 5, 2013, is affirmed. Approval of the underlying petition remains revoked.

Pertinent Facts and Procedural History

The petitioner seeks classification of an orphan as an immediate relative 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 on the basis that the petitioner had failed to establish that the beneficiary qualifies for classification as an *orphan* as that term is defined at section 101(b)(1)(F) of the Act. The petitioner's appeal was summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v), on the basis that the petitioner failed to submit any additional evidence or identify specifically any erroneous conclusion of law or statement of fact for the appeal. On motion to reopen and reconsider, the petitioner requests an additional 12 months from November 25, 2013 to obtain and submit amended birth certificate and court guardianship documentation from Indonesia.

Applicable law

The regulation states, in pertinent part, at 8 C.F.R. § 103.5(a):

(2) *Requirements for motion to reopen.* A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence.

* * *

(3) *Requirements for motion to reconsider.* A motion to reconsider must 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. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed

Analysis

The petitioner asserts on motion that she will provide an amended court guardianship decree and a corrected birth certificate for the beneficiary that contains only the mother's name; however, she does not submit the evidence on motion, and she requests an additional 12 months to obtain and submit the documents. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an

appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R §§ 103.5(a)(2) and (3). Accordingly, the petitioner's request for an additional one year to submit new evidence is denied.

Because the petitioner's assertions are not supported by the corroborative evidence, the motion to reopen our November 5, 2013 decision shall be dismissed. In addition, the petitioner did not state or establish that our decision was based on an incorrect application of law or Service policy. Accordingly, the motion to reconsider our November 5, 2013 decision must also be dismissed.

Conclusion

The instant motion does not meet the applicable filing requirements for a motion to reopen or a motion to reconsider and shall therefore be dismissed.

ORDER: The motion is dismissed. The AAO decision, dated November 5, 2013, is affirmed. Approval of the underlying petition remains revoked.