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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship and Immigration Services

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[Redacted]

FILE: [Redacted] Office: OKLAHOMA CITY Date:

**MAR 31 2009**

IN RE: Applicant: [Redacted]  
Beneficiary: [Redacted]

PETITION: Application for Advance Processing of Orphan Petition Pursuant to 8 C.F.R. § 204.3(c)

ON BEHALF OF PETITIONER:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The director of the Oklahoma City district office denied the Application for Advance Processing of Orphan Petition. On appeal, the Administrative Appeals Office (AAO) withdrew the director's decision and remanded the application to the director for further action and entry of a new decision, which, if adverse to the petitioner, was to be certified to the AAO for review. Upon remand, the director issued a new decision, which has been forwarded to the AAO. The director's decision will again be withdrawn and the application will be remanded for further action.

The applicant filed the Application for Advance Processing of Orphan Petition (Form I-600A) on May 8, 2007. The director denied the application on February 22, 2008 after determining that the applicant failed to disclose to the home study preparer that he had been arrested in 1986 for driving while intoxicated, that he was previously married and had another child in Ethiopia and that his wife had two other adopted children.

On appeal, the AAO withdrew the decision of the director and remanded the case to the director for further action in compliance with the regulation at 8 C.F.R. § 204.3(h)(2), specifically, to attempt to resolve the outstanding issues with the home study preparer and the applicant and his wife before denying the application. The AAO stated that if the new decision was adverse to the applicant, the decision had to be certified to the AAO for review.

Upon remand, the director issued a Request for Evidence (RFE) on August 27, 2008 pursuant to the AAO's August 20, 2008 decision. Neither the petitioner nor counsel responded. On December 29, 2008, the director denied the application as abandoned. The director forwarded the case to the AAO for "certification of denial," but did not provide the applicant and counsel with notice of the certification, as required by the regulation at 8 C.F.R. § 103.4(a)(2). Pursuant to the regulation, the director must notify the applicant that he has 30 days after service of the decision to submit a brief to the AAO.

Accordingly, the application is remanded for issuance of a newly dated decision and corresponding Notice of Certification in compliance with the regulation at C.F.R. § 103.4(a)(2).

**ORDER:** The director's December 29, 2008 decision is withdrawn. The case is remanded to the director for action consistent with the above discussion and entry of a new decision, which, if adverse to the petitioner, is to be certified to the AAO for review.