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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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[REDACTED]

FILE:

[REDACTED]

Office: DALLAS, TX

Date: **FEB 16 2010**

IN RE:

[REDACTED]

APPLICATION: Application for Advance Processing of Orphan Petition Pursuant to 8 C.F.R. § 204.3

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The field office director denied the request to extend approval of Form I-600A, Application for Advance Processing of Orphan Petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The field office director denied the applicant's request to extend approval of his previously-approved Form I-600A on the basis of the applicant's failure to file such request during the time period during which he was eligible to do so. On appeal, the applicant indicates that such failure to file the extension request in a timely manner was not intentional, and requests that the application be approved.

The regulation at 8 C.F.R. § 103.7(b),¹ which governs filing fees, states, in pertinent part, the following:

Form I-600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)--\$670. No fee is charged if Form I-600 has not yet been submitted in connection with an approved Form I-600A if a written request from the applicant for an extension of the approval has been received by USCIS prior to the expiration date of the approval indicated on the Form I-171H. This extension will require an update of the applicant's home study and a determination from USCIS that proper care will be provided to an adopted orphan. A no fee extension is limited to one occasion. If the Form I-600A approval extension expires prior to submission of an associated Form I-600, then a complete application and fee must be submitted for any subsequent application.

The applicant's Form I-171H indicates that his advanced processing approval, which was issued on November 1, 2007, expired on May 1, 2009. The applicant, however, did not file for the extension until June 22, 2009, nearly two months after the expiration of the Form I-171H on May 1, 2009. Accordingly, the field office director denied the extension request.

On appeal, the applicant apologizes for the untimely filing and states that it was an honest misunderstanding. However, while the AAO is not unsympathetic to the applicant, the regulation at 8 C.F.R. § 103.7(b) mandates denial of the petition, and the AAO lacks discretionary authority to waive the timely filing requirement contained at 8 C.F.R. § 103.7(b). Accordingly, the AAO will not disturb the field office director's denial of the application.

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

ORDER: The appeal is dismissed.

¹ The AAO notes that in her September 1, 2009 decision, the field office director cited 8 C.F.R. §§ 204.3(b), 204.3(d), 204.3(h)(7), and 204.3(h)(13). Although none of those regulations pertain directly to the matter at hand, such citations were harmless error, and the AAO will not withdraw her decision.