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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: BUFFALO, NY

Date:

APR 15 2008

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship under Section 321 of the former Immigration and Nationality Act, 8 U.S.C. §1432.

ON BEHALF OF APPLICANT:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Buffalo, New York, and came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed on February 18, 2008. The applicant has filed a motion to reconsider. The motion will be dismissed.

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. *See* 8 C.F.R. § 103.5(a). 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. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion repeats arguments already presented to the AAO and is not supported by any additional precedent or evidence. The applicant simply reiterates that was not legitimated in the Dominican Republic because he was not formally acknowledged prior to his parents' marriage in 1984. The record is at best unclear with regards to the date when the applicant was formally acknowledged and, although the AAO recognizes that the Article 331 appears to require acknowledgement of the child prior to or at the time of the parents' marriage, there is no requirement that acknowledgement be formal or official. The AAO finds, in any event, that the applicant's acknowledgement or recognition was contemporaneous with his parents' marriage. The record thus establishes that the applicant was legitimated in accordance with the law in the Dominican Republic upon his parents' marriage in 1984. The AAO further notes that the applicant was deemed legitimate upon his parents' marriage under New York law, the law of his state of residence. The applicant's paternity had therefore been established by legitimation prior to his mother's naturalization in 1993.

The applicant has not submitted any relevant argument or evidence supporting his claim that the AAO's February 18, 2008 decision was erroneous. The applicant is not eligible for U.S. citizenship under section 321 of the former Act, 8 U.S.C. § 1431, and the motion to reconsider will be dismissed.

ORDER: The motion to reconsider is dismissed.