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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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FILE:

Office: HARLINGEN, TX

Date:

MAY 06 2010

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship under Section 201 of the
Nationality Act of 1940, 8 U.S.C. § 601.

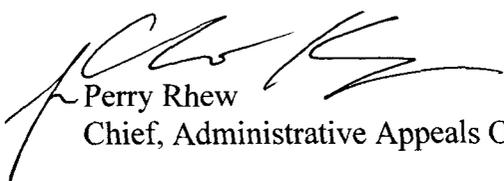
ON BEHALF OF APPLICANT:

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 application was denied by the District Director, Harlingen, Texas and the Administrative Appeals Office (AAO) rejected the applicant's untimely appeal. The matter is again before the AAO upon a Motion to Reopen or Reconsider. The Motion will be dismissed.

The record reflects that the applicant was born on January 10, 1949 in Mexico. The applicant's mother was born in Texas in 1924. The applicant's parents were married in Mexico in 1944. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his mother under section 201 of the Nationality Act of 1940 (the Nationality Act), 8 U.S.C. § 601.

Section 201(g) of the Nationality Act states, in pertinent part:

A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reached the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

The district director denied the application for certificate of citizenship finding that the applicant had failed to establish that his mother had the required residence in the United States. The applicant appealed the director's decision. The AAO rejected the applicant's appeal as untimely. The applicant now maintains that he was erroneously instructed to file his appeal directly with the AAO and was not responsible for the delay. He now seeks reopening and reconsideration of his citizenship claim.

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. 8 C.F.R. § 103.5(a)(2). 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 U.S. Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3). 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. *Id.* A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant has not provided any new evidence or argument to establish his eligibility for U.S. citizenship. The record does not contain evidence of the applicant's mother's residence in the United States as required by section 201(g) of the Nationality Act, other than the applicant's mother's birth certificate and a notarized statement by her cousin that lacks detailed, probative

information. The evidence of record fails to establish that the applicant's mother resided in the United States as required for the applicant to acquire citizenship through her under section 201(g) of the Nationality Act. On motion, the applicant states no new, relevant facts and submits no additional evidence. The applicant also fails to state any reasons why his citizenship claim should be reconsidered pursuant to applicable law or USCIS policy. The applicant's motion must therefore be dismissed.

ORDER: The motion is dismissed.