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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  
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[REDACTED]

FILE: [REDACTED] Office: NEW YORK, NY Date: **NOV 09 2010**

IN RE: Applicant: [REDACTED]

PETITION: Application for Certificate of Citizenship under Section 301 of the Immigration and Nationality Act, 8 U.S.C. § 1401

ON BEHALF OF PETITIONER:

[REDACTED]

**INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, New York, New York, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion to reopen or reconsider. The motion will be dismissed.

The record indicates that the applicant was born in Colombia on September 15, 1964. The applicant claims to have derived citizenship from [REDACTED] a native of Colombia who became a naturalized U.S. citizen on November 20, 1958. The applicant first filed a Form N-600, Application for Certificate of Citizenship, on June 17, 2002, and that application was denied. A subsequent N-600 application was denied and an appeal of that denial was dismissed by the AAO on October 26, 2005. The applicant again filed Form a Form N-600 on April 26, 2006 and the AAO dismissed an appeal of the denial of that application on May 13, 2008.

The district director concluded that the applicant had failed to establish that [REDACTED] was his biological father, and the AAO concluded that the applicant had failed to identify any erroneous conclusion of law or statement of fact in the district director's decision and summarily dismissed the appeal. *See Decision of the AAO* dated May 13, 2008.

On motion, counsel for the applicant states that the applicant is planning on submitting his Motion to Reopen and Reconsider based on new facts, including DNA evidence that would show that [REDACTED] is the applicant's biological father, and requests an extension of time in the amount of 90 days to submit this evidence. Counsel further claims that the applicant had made plans for Mr. [REDACTED] body to be exhumed and DNA to be extracted, and relies on 8 C.F.R. § 103.3(a)(2)(vii) to support a claim that good cause has been show for an extension of time to be granted.

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 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. 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 instant motion does not assert that the AAO's previous decision was based on an incorrect application of law or Service policy to the evidence of record at the time of the initial decision but claims that the motion will be based on new facts. It therefore cannot be considered to be a motion to reconsider but only a motion to reopen. A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. Counsel states that new evidence will be obtained to support a claim that [REDACTED] is the applicant's biological father and requests more time to submit this evidence. The regulations governing motions do not, however, allow for an extension of time to submit additional evidence after the motion is filed, and the regulation at 8 C.F.R. § 103.3(a)(2)(vii) relied upon by counsel applies only to appeals. Counsel's request for an extension of time to submit evidence in support of the motion to reopen must therefore be denied.

The instant motion states that new evidence will be submitted to establish new facts, but the motion is not supported by affidavits or documentary evidence in support of these facts, and the regulations do not allow for an extension of time to submit this evidence. As the motion does not meet applicable requirements for a motion to reopen it shall be dismissed in accordance with 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion is dismissed.