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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:  Office: BOSTON, MA Date:

IN RE: Applicant: 

JAN 14 2011

APPLICATION: Application for Certificate of Citizenship under Section 201 of the Nationality Act of 1940; 8 U.S.C. § 601(1940)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 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 Kiew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Boston, Massachusetts and the Administrative Appeals Office (AAO) dismissed the applicant's subsequent appeal. The matter is now before the AAO on a motion to reconsider its prior decision. The motion will be dismissed.

The applicant was born in Canada and seeks a certificate of citizenship based on his claim that he acquired U.S. citizenship at birth through his father, who was born in the United States. In our September 8, 2010 decision dismissing the applicant's appeal, we explained that the record failed to establish that the applicant's father resided in the United States for at least 10 years prior to the applicant's birth in 1943, as is required for the applicant to acquire citizenship through his father under the applicable law, section 201(g) of the Nationality Act of 1940, 8 U.S.C. § 601(g) (1940).

On the Form I-290B, Notice of Motion, the applicant stated that he had hired a lawyer to search for records to prove that his father was in the United States for 10 years prior to his birth and that he would submit documentation as soon as his lawyer contacted him. The applicant dated the Form I-290B on October 3, 2010. To date, over three months later, the AAO has received no further evidence or correspondence from the applicant and the file contains no indication that an attorney has entered an appearance in this matter. The applicant's brief statements on the Form I-290B do not meet the requirements for a motion to reconsider.

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 must 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 the applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Here, the applicant does not reference any precedent decisions or other legal authority to establish that our prior decision involved an incorrect application of law or USCIS policy. Even if the applicant had submitted additional evidence with his motion, such evidence could not be considered because a motion to reconsider must show that the prior decision was erroneous based on the record at the time. The applicant's submission fails to meet the requirements for a motion to reconsider pursuant to the regulation at 8 C.F.R. § 103.5(a)(3). Consequently, the applicant's motion will be dismissed and the AAO's prior decision will be affirmed.

ORDER: The motion to reconsider is dismissed. The September 8, 2010 decision of the Administrative Appeals Office is affirmed.