



U.S. Citizenship
and Immigration
Services

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DATE: **JUL 28 2011**

Office: PHILADELPHIA

FILE: 

IN RE: 

APPLICATION: Application for Certificate of Citizenship under former section 321 of the Immigration and Nationality Act, 8 U.S.C. § 1432 (1980)

ON BEHALF OF PETITIONER:

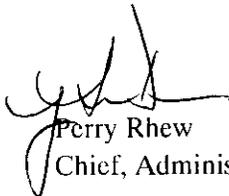
SELF-REPRESENTED

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 a fee of \$630. 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 for Certificate of Citizenship (Form N-600) was denied by the director of the Philadelphia Field Office and the Administrative Appeals Office (AAO) dismissed the subsequent appeal. The AAO affirmed the dismissal on motion. The matter is now before the AAO on a second motion. The motion will be dismissed.

A motion to reopen or reconsider must be filed within 30 days of the adverse decision. 8 C.F.R. § 103.5(a)(1)(i). If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). Failure to timely file a motion to reopen may be excused at the discretion of U.S. Citizenship and Immigration Services (USCIS) if the applicant demonstrates that the delay was reasonable and beyond his or her control. 8 C.F.R. § 103.5(a)(1)(i).

The AAO issued its latest decision on April 13, 2011. The applicant dated his motion June 9, 2011, which was 57 days after the AAO's decision was issued. The applicant has not demonstrated that the delay was reasonable and beyond his control. Accordingly, the motion must be dismissed as untimely filed.

Even if the applicant's motion had been timely filed, it does not demonstrate that the AAO's prior decision was based on an incorrect application of law or USCIS policy and the additional evidence submitted on motion does not overcome the grounds for denial of the application and dismissal of the appeal. *See* 8 C.F.R. § 103.5(a)(2) – (3) (requirements for motions to reopen and reconsider). The evidence submitted with the present motion does not contain a marriage certificate of the applicant's father and his alleged stepmother; does not establish that the applicant's alleged stepmother adopted him; and does not show that he was residing with his alleged stepmother at the time of her naturalization in 1973. The AAO's April 13, 2011 decision fully discussing these issues is hereby incorporated by reference. Consequently, the applicant has not established that he automatically derived U.S. citizenship through his alleged stepmother under former section 321 of the Act, 8 U.S.C. § 1432 (1980), and his motion must be dismissed for this additional reason. *See* 8 C.F.R. § 103.5(a)(4) (motions failing to meet the applicable requirements shall be dismissed).

The applicant bears the burden of proof to establish his eligibility for citizenship under the Act. Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 341.2(c). The applicant has not met this burden. Accordingly, the motion will be dismissed, the appeal will remain dismissed and the application will remain denied.

ORDER: The motion is dismissed.