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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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Date: **MAY 26 2011** Office: HARLINGEN, TX

FILE:

IN RE: Applicant:

APPLICATION: Application for Certificate of Citizenship under Former Section 321 of the Immigration and Nationality Act; 8 U.S.C. § 1432 (repealed).

ON BEHALF OF APPLICANT:



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 was denied by the Field Office Director, Harlingen, Texas. The matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was summarily dismissed on June 24, 2010. The applicant now seeks reconsideration of the denial of his citizenship claim by filing a new Form I-290B, Notice of Appeal to the AAO. The applicant's filing will be deemed to be a motion to reopen or reconsider. The motion will be dismissed. The application will remain denied.

The record reflects that the applicant was born on April 10, 1957 in Mexico. The applicant's mother, [REDACTED], married [REDACTED] on September 26, 1965. The applicant was adopted by [REDACTED] in August 1965 and admitted to the United States as a lawful permanent resident in October 1965. The applicant's adopted father was born in the United States on December 23, 1920. The applicant's mother became a U.S. citizen upon her naturalization on November 11, 1970. The applicant's eighteenth birthday was on April 10, 1975. The applicant seeks a certificate of citizenship claiming that he derived U.S. citizenship through his adopted father.

The field office director determined that the applicant did not derive U.S. citizenship through either his adopted father or his mother under either former section 320 or 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1431 or 1432 (2000). The director found that the applicant was over the age of 18 years when the provisions allowing adopted children to derive U.S. citizenship took effect. The director further found that the applicant could not derive U.S. citizenship upon his mother's naturalization alone. The application was accordingly denied.

The applicant's appeal was summarily dismissed for failure to identify any errors in the field office director's decision. *See* Decision of the AAO dated June 24, 2010. In the instant motion, the applicant, through counsel, states that he derived U.S. citizenship through his adopted father and that the denial of citizenship is based on an erroneous interpretation of law. Counsel indicates that a brief will be submitted within 30 days outlining his legal arguments. *See* Form I-290B, Notice of Appeal to the AAO dated July 23, 2010. To date, the AAO has not received any legal brief or any additional argument or evidence in support of the applicant's claim.

A motion to reopen a decision made by U.S. Citizenship and Immigration Services (USCIS) 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 a decision 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 USCIS policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider also must establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.* Here, the applicant's submission does not meet the requirements for a motion to reopen and reconsider. *See* 8 C.F.R. § 103.5(a)(2), (3). The applicant's submission is not accompanied by any new evidence or reasons for reconsideration. Accordingly, the motion will be dismissed pursuant to 8 C.F.R. § 103.5(a)(4) for failing to meet applicable requirements, and the application will remain denied.

ORDER: The motion is dismissed. The application is denied.