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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: AUG 18 2014 OFFICE: SAN ANTONIO, TX FILE:

IN RE:

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

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the San Antonio, Texas Field Office (the director) denied the Application for Certificate of Citizenship (Form N-600). The matter was appealed to the Administrative Appeals Office (AAO), and the appeal was dismissed. The matter is again before the AAO on a motion to reconsider. The motion is dismissed. The AAO decision, dated May 23, 2013, is affirmed. The underlying application remains denied.

Pertinent Facts and Procedural History

The applicant was born to married parents in Mexico on His mother was born in Texas on and she is a U.S. citizen. The applicant's father was born in Mexico, and he became a naturalized U.S. citizen on when the applicant was 45 years old. The applicant seeks a certificate of citizenship under former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7), based on the claim that he acquired U.S. citizenship at birth through his mother.

In a decision dated May 30, 2012, the director determined that the applicant failed to establish that his mother was physically present in the United States for 10 years prior to the applicant's birth, at least five years of which were after the applicant's mother turned 14 years old. The application was denied accordingly.[1] We dismissed the applicant's appeal in a decision dated May 23, 2013, on the basis that the applicant failed to establish, by a preponderance of the evidence, that his mother met U.S. physical presence requirements set forth in former section 301(a)(7) of the Act. The matter is now before us on a motion to reconsider.

Applicable law

The regulation states, in pertinent part, at 8 C.F.R. § 103.5(a):

> (3) *Requirements for 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 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.
>
> (4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed

[1] The record contains a Form N-600 filed by the applicant on August 24, 1994. The applicant obtained a certificate of citizenship on the basis of this application on The certificate was cancelled on

Analysis

The applicant failed to satisfy 8 C.F.R. § 103.5(a)(3) requirements. Through counsel, the applicant restates the facts and procedural history of his case, and he asserts that he is filing this motion, "in order to correct a matter of law or so that the facts may be re-examined." Counsel cites *Murphy v. INS*, 54 F.3d 605 (9th Cir.) for the proposition that absent discrepancies in evidence a claim to derivative citizenship that has reasonable support cannot be rejected. In our prior decision, however, we noted the discrepancies among information contained in the various affidavits and on the Form N-600 applications that the applicant previously submitted. On motion, the applicant has not addressed any of these discrepancies. Moreover, he does not state or establish that our decision was based on an incorrect application of law or Service policy, establishing that our decision was legally incorrect.

Conclusion

The instant motion does not meet the applicable filing requirements for a motion to reconsider and shall therefore be dismissed.

ORDER: The motion is dismissed. The AAO decision, dated May 23, 2013, is affirmed. The underlying application remains denied.