



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-P-L-E-

DATE: JAN. 5, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM N-600, APPLICATION FOR CERTIFICATE OF CITIZENSHIP

The Applicant, a native of Mexico, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) § 301, 8 U.S.C. § 1401 (amended by Pub. L. No. 95-432, 92 Stat. 1046 (1978)). The Field Office Director, San Antonio, Texas, denied the application. We dismissed an appeal of the Director's decision, and denied a subsequent motion to reconsider. The matter is again before us on a motion to reopen and a motion to reconsider.¹ The motions will be denied as untimely filed.

The record indicates that the Applicant was issued a certificate of citizenship on August 27, 1996, on the basis of a Form N-600, Application for Citizenship, filed on August 8, 1994. On March 6, 2007, U.S. Citizenship and Immigration Services (USCIS) issued a final notice cancelling the Applicant's certificate of citizenship. The Applicant filed a second Form N-600 on August 31, 2009. On May 30, 2012, the Director denied the application on the grounds that the Applicant did not establish that his U.S. citizen parent had the required number of years of physical presence in the United States in order for the Applicant to acquire U.S. citizenship pursuant to section 301 of the Act.

On appeal, the Applicant asserted that he met the requirements to acquire U.S. citizenship. On May 23, 2013, we dismissed the appeal, concurring with the Director's findings that his U.S. citizen parent did not have the required number of years of physical presence in the United States to confer U.S. citizenship to the Applicant.

The Applicant subsequently filed a motion to reconsider our decision. On August 18, 2014, we denied this motion as the applicant did not meet the requirements for a motion to reconsider, as defined in the regulations at 8 C.F.R. § 103.5(a)(3).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen or reconsider a proceeding must be filed within 30 days of the underlying decision, and that a motion to reopen must

¹ On the Form I-290B, Notice of Appeal or Motion, the Applicant indicated that he was filing an appeal of the decision to deny his previous motion to reopen/reconsider. However, as there is no appeal of the denial of a motion to reopen/reconsider, we are treating the I-290B as a Motion to Reopen/Reconsider.

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be filed within 30 days except that failure to file a motion during this period may be excused when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.8(b). Pursuant to 8 C.F.R. § 103.5(a)(4), a motion that does not meet applicable requirements shall be dismissed.

We rendered our decision on August 18, 2014. USCIS received the motion on September 23, 2014,² 35 days after the date of our decision. The Applicant has not demonstrated that the delay was reasonable and beyond his control. The motions are therefore untimely.

The burden of proof in these proceedings rests solely with the Applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the motions were not filed within the allotted time period. Accordingly, the motions will be denied.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of J-P-L-E-*, ID# 13860 (AAO Jan. 5, 2016)

² Although the motion was filed on September 23, 2014, our office did not receive the motion until April 15, 2015.