



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

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

In Re: 4268107

Date: NOV. 20, 2019

Motion on Administrative Appeals Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship from his father under former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7).

The Director of the San Jose Field Office, Santa Clara, California denied the application, concluding that the Applicant did not establish, as required, that his father had sufficient prior U.S. physical presence to transmit his citizenship to the Applicant at birth. The Applicant subsequently filed a motion to reopen and reconsider the adverse decision and submitted transcripts of the depositions his father and other individuals provided in unrelated citizenship proceedings. The Director of the Fresno, California Field Office reopened the matter based on this new evidence, but denied the application again, finding that the testimony focused on the U.S. physical presence of the father's sister and contained very limited information about the father's own presence in the United States during the relevant period before the Applicant's birth. We summarily dismissed the following appeal pursuant to the regulations at 8 C.F.R. § 103.3(a)(1)(v), because the Applicant did not specifically identify any erroneous conclusion of law or statement of fact in the Director's decision.

The matter is now before us on a combined motion to reopen and reconsider. The Applicant resubmits the transcripts of the depositions, and reasserts that they establish his father's requisite physical presence in the United States.

In these proceedings, it is the Applicant's burden to establish his claim to U.S. citizenship and eligibility for a Certificate of Citizenship. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). Upon review, we will dismiss the motion to reopen and reconsider.

In general, the official who made the latest decision in the proceeding may, for proper cause shown, reopen the proceeding or reconsider the prior decision. 8 C.F.R. § 103.5(a)(i)-(ii). A motion to reopen is based on documentary evidence of new facts, and a motion to reconsider must show that our decision was based on an incorrect application of law or policy to the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(2)-(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit; however, a motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

As a preliminary matter, we note that the review of any motion is limited to the basis for the prior adverse decision. Accordingly, we examine any new facts and arguments to the extent that they pertain to our summary dismissal of the Applicant's appeal.

The Applicant does not claim on the instant motion that the summary dismissal of his appeal was based on incorrect application of law or U.S. Citizenship and Immigration Services' (USCIS) policy. Although he indicates that he requested additional time to submit a supporting brief while his appeal was pending, he provides no evidence of making such a request, and the record does not show that we received it. Rather, the record reflects that the only correspondence the Applicant submitted during the pendency of the appeal was an updated Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, and a letter stating that he would submit additional evidence within 30 days of filing the appeal. His unsupported assertion that he previously asked for an extension of time to supplement the record is insufficient for us to reexamine our previous finding that his appeal lacked substance.

We acknowledge the Applicant's resubmission of the evidence he provided in support of his underlying Form N-600 and a subsequent motion to reopen and reconsider. However, the Director addressed this and other evidence in denying the Form N-600, and explained in detail why it was inadequate to establish that the Applicant's father had the requisite presence in the United States. The Applicant does not point to any errors in the Director's analysis of the evidence, nor does he submit any new documents to establish that his father did in fact satisfy the physical presence requirement for transmission of U.S. citizenship. Rather, he again summarizes his father's and his relatives' testimony, and renews his claim that he acquired U.S. citizenship from his father. This evidence, however, does not relate to latest decision in the Applicant's citizenship proceedings, which is the summary dismissal of his appeal. As such, it does not establish a basis for reopening of that decision.

The Applicant has not shown that we erred as a matter of law or USCIS policy in summarily dismissing his appeal, nor has he established new facts relevant to the summary dismissal that would warrant reopening of the proceedings. Consequently, we have no basis for reopening or reconsideration of our appellate decision. The Applicant's appeal therefore remains dismissed, and his underlying application for a Certificate of Citizenship remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.