



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

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

In Re: 23431679

Date: JAN. 19, 2023

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 citizenship at birth from his U.S. citizen mother 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 Houston, Texas Field Office denied the application, concluding that the Applicant did not establish that his mother satisfied the overall 10-year U.S. physical presence requirement for transmission of citizenship, and we dismissed the Applicant's appeal on the same basis. The matter is now before us on a combined motion to reopen and reconsider.

The Applicant submits additional evidence and reasserts eligibility.

Upon review, we will dismiss the motions.

A motion to reopen is based on documentary evidence of new facts, and a motion to reconsider must establish that our decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) 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 immigration benefit sought.

As previously discussed, to establish that he acquired U.S. citizenship from his mother under former section 301(a)(7) of the Act, the Applicant must show by a preponderance of the evidence that his mother was physically present in the United States for a period or periods totaling not less than 10 years prior to his birth in 1962, and that at least 5 of those years were after his mother's 14th birthday in 1954.

In our prior decision, which we incorporate here by reference we determined that the Applicant did not meet his burden of proof to show his mother satisfied these requirements; although the sole affidavit he submitted indicated that his mother started visiting the United States in 1951, it did not provide information about the time she actually spent in the country during those visits.

The Applicant does not identify any legal or policy errors in this determination, nor does he claim that it was incorrect based on the evidence in the record at the time we dismissed his appeal. Consequently, he has not established a basis for us to reconsider that decision.

The Applicant also has not shown that reopening of his citizenship proceedings is warranted based on the additional evidence he submits on motion. This evidence includes the mother's 1990 immigrant visa and related documents; her 1942 border crossing record; 1910-1930 U.S. census records of the Applicant's relatives; a 1950 rent payment receipt; the mother's 2014 affidavit concerning her U.S. physical presence; and two letters. The Applicant asserts that although the U.S. Department of State denied his requests for a U.S. passport,<sup>1</sup> he has presented enough evidence to show that his mother (now deceased) was present in the United States for at least 10 years prior to his birth in 1962. We disagree.

The Applicant claims that from 1940 through 1955 his mother came to visit her family in the United States every 3-5 months, and would stay in the country "for continuous periods of 3-5 weeks." The evidence is not sufficient to support this claim. While the mother's immigrant visa documents reflect that she was admitted to the United States as a lawful permanent resident in 1990, they do not include any information about her presence in the United States prior to the Applicant's birth in 1962. Similarly, although the U.S. census records indicate that the mother's relatives resided in the United States in 1910, 1920, and 1930, those records are not probative of the U.S. physical presence of the Applicant's mother, who was born in 1940. The mother's 1942 border crossing record and the 1950 rent payment receipt issued to the Applicant's maternal grandmother indicate that the mother may have spent some time in the United States in those years, but they are not sufficient to determine how long she was actually physically present in the United States as a child. We further note that in her own physical presence affidavit, the Applicant's mother represented that she spent a little over two months in the United States within the 1940-1951 period—when she was on vacation in New Mexico from June 20 to August 30, 1950.

The Applicant states that after his mother turned 15 years old in 1955, she would come to the United States as a nonimmigrant on a daily or weekly basis to shop, and that she would also visit her relatives in New Mexico for five to six months each year during the 1955-1960 period. This statement, however, is not consistent with the mother's own physical presence affidavit where she indicated that she resided and worked in New Mexico as a housecleaner from January 1951 through March 1961. Regardless, the two letters the Applicant submits on motion are inadequate to show how much time his mother actually spent in the United States in the 1950s. In the first letter, the Applicant's relative states that she remembers his mother visiting the family in [redacted] New Mexico on several occasions "on extended visits," but cannot recall any details due to advanced age. The second letter was written by the mother's cousin, who states generally that she was present on various occasions when the mother visited her relatives' home in [redacted] New Mexico. However, as neither writer provides information about the timing and duration of the mother's visits in the United States, we cannot give their letters significant weight in establishing when and how long the mother was actually physically present in the United States.

---

<sup>1</sup> The Applicant submits three decision from the U.S. Department of State dated 2015, 2017, and 2021, denying his requests for a U.S. passport for lack of sufficient evidence that his mother had the requisite physical presence in the United States.

We have considered the additional evidence the Applicant submits on motion, and conclude that the record as a whole is still insufficient to show that his mother satisfied the overall 10-year physical presence in the United States. The Applicant therefore has not established new facts that would warrant reopening of these proceedings, and he also has not shown that we erred as a matter of law or USCIS policy in dismissing his appeal. Consequently, we have no basis for reopening or reconsideration of our previous decision. The Applicant's appeal remains dismissed, and his underlying request for a Certificate of Citizenship remains denied.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.