



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

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

In Re: 20518843

Date: MAR. 29, 2022

Motion on Administrative Appeals Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her father under former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432.

The Director of the Houston, Texas Field Office denied the application, concluding that the Applicant was not eligible for a Certificate of Citizenship under former section 321(a) of the Act because her parents were not married when she was born and her mother was not a U.S. citizen. The Director also concluded that the Applicant was not eligible under section 320 of the Act because she was not under the age of 18 years on the effective date of that provision. We subsequently dismissed her appeal, concluding that because the Applicant had not shown that she was in the legal custody of her father after a legal separation of her parents at some point on or after the date her father naturalized and before she turned 18 years of age, she had not satisfied the conditions at former section 321(a)(3) of the Act. Consequently, the Form N-600 may not be approved.

The Applicant has filed a combined motion to reopen and reconsider our decision.

Because the Applicant was born abroad, she is presumed to be an alien and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008). We will dismiss the motions because the Applicant has not met that burden.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy, and was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3).

The issue on motion is whether the Applicant has established that our prior decision to dismiss the appeal was erroneous based on evidence of new facts or an incorrect application of law or policy. We conclude, upon review, that she has established neither scenario.

On motion, the Applicant claims that her biological parents were legally married because they entered into a customary marriage in Honduras, and states that she will submit a brief to shed light on this

assertion. The Applicant also claims that she became a U.S. citizen through her father while she was still a minor. However, as of the date of this decision, the Applicant has not submitted a brief or additional evidence to support her initial statement. Since her statement does not meet the requirements of a motion to reopen or reconsider based on evidence of new facts or an incorrect application of law or policy, the motions must be dismissed.

The Petitioner has not met her burden of demonstrating that our prior determination was erroneous based on evidence of new facts or an incorrect application of law or policy.

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

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