



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

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

In Re: 20597464

Date: MAY 11, 2022

Motion on Administrative Appeals Office Decision

Form N-600, Application for Certificate for Citizenship

The Applicant, a native and citizen of Mexico, seeks a Certificate of Citizenship under section 201(g) of the Nationality Act of 1940 (the 1940 Act), 8 U.S.C. § 601(g), *repealed by* Immigration and Nationality Act, ch. 477, title IV, § 403(a)(42), Pub. L. No. 82-414, 66 Stat. 163, eff. Dec. 24, 1952 (June 27, 1952). The Director of the Los Angeles, California Field Office denied the Form N-600, Application for Certificate of Citizenship (Form N-600), and a subsequent motion to reopen and reconsider,¹ concluding that USCIS lacked jurisdiction because the Applicant was residing outside of the United States when she filed the Form N-600. We dismissed the Applicant's subsequent appeal, overturning the Director's jurisdictional determination but concluding that she had not demonstrated that her mother was a U.S. citizen or that she resided in the United States for 10 years prior to the Applicant's birth, at least five years of which occurred after the Applicant's mother turned 16 years old. The matter is now before us on a motion to reopen. Upon review, we will dismiss the motion as untimely.

I. LAW

The Applicant was born in Mexico in 1946 to married parents. The Applicant claims that her father was a citizen of Mexico and her mother was a U.S. citizen at the time of her birth. The Applicant seeks a Certificate of Citizenship indicating that she acquired U.S. citizenship at birth from her mother pursuant to section 201 of the 1940 Act.

An individual born outside the United States who acquired U.S. citizenship at birth, or who automatically derived U.S. citizenship after birth but before the age of 18, may apply to receive a Certificate of Citizenship. Section 201(g) of the 1940 Act. An individual claiming to be a U.S. citizen at birth, and who was born to married parents between January 13, 1941, and December 24, 1952, must have at least one U.S. citizen parent, and that parent must have resided in the United States before

¹ The Applicant filed a prior Form N-600 in January 2004. The record reflects that the Form N-600 was denied in September 2005 for lack of jurisdiction because the Applicant was residing outside of the United States when she filed. The Applicant did not appeal that decision. The Applicant filed a second Form N-600 in July 2014. The regulation at 8 C.F.R. § 341.6 states that after an application for Certificate of Citizenship has been denied and the appeal period has run, a second application submitted by the same applicant will be rejected, and the applicant shall be instructed to file a motion to reopen or reconsider the denial of the first application. The Director treated the Applicant's second Form N-600 as a motion to reopen and reconsider.

the individual's birth for ten years, at least five of which occurred after the parent turned 16 years of age. *Id.*

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). Pursuant to 8 C.F.R. §§ 103.5(a)(1)(i) and 103.8(b), motions must generally be filed within 33 days of the adverse decision. The untimely filing of a motion to reopen may be excused in the discretion of U.S. Citizenship and Immigration Services (USCIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit. Applicants bear the burden of establishing eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant acknowledges and the record demonstrates that her motion to reopen was untimely filed. We dismissed the Applicant's appeal of the Director's decision on her Form N-600 on December 7, 2016. The record indicates that our December 2016 decision properly gave the Applicant notice concerning the 33-day deadline to file a motion to reopen or reconsider and also directed her to USCIS' website for current information on filing fees, filing locations, and other filing requirements. The Applicant subsequently filed her motion to reopen on October 25, 2021, a total of 1783 days after we issued our decision dismissing her appeal.

The Applicant requests that we reopen her Form N-600 "as [she] ha[s] both new and corrected facts with documented evidence demonstrating [her] eligibility for derived citizenship through her mother . . . at the time of [her] original application." She contends that there were errors on her birth certificate, her parent's marriage certificate, and her mother's death certificate, and that "it [took her] several years as [she has] had to open legal matters through the courts to correct the errors on said documents." She further contends that, "[w]ith COVID delays over the last couple of years, th[ose] corrections [took] increasingly longer than expected; thus preventing [her] from filing the motion to reopen sooner."² The documentation the Applicant submits in support of her motion includes a copy of her parent's amended Arizona marriage certificate issued in November 2019, a copy of her mother's amended California death certificate issued in February 2019, a copy of her amended Mexican birth certificate issued in August 2021, a letter from Arizona State University dated April 2022,³ and Ancestry.com printouts dated in 2020. We note that the amended marriage and death certificates were issued in 2019—prior to the COVID-19 pandemic. Additionally, the Applicant does not submit documentation or further information regarding the legal matters she references as having contributed to her delay in filing. Finally, the Applicant has not explained why she waited until 2021, approximately five years after she received our decision, to obtain a copy of her amended Mexican birth certificate or why she was unable to provide additional documentation from the Ancestry.com website sooner. Accordingly, the Applicant has not shown that her delay in filing her motion to reopen

² USCIS extended filing deadlines associated with the Form I-290B, Notice of Appeal or Motion (Form I-290B), in response to the coronavirus (COVID-19) pandemic. See "USCIS Extends Flexibility for Responding to Agency Requests," (Dec. 30, 2021), <https://www.uscis.gov/newsroom/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-0>. However, the extended filing deadlines applied to decisions issued on or after March 1, 2020, and are accordingly inapplicable to the Applicant's case.

³ The letter is dated April 2002, but this appears to be a typographical error.

was reasonable and beyond her control, such that her untimely filing should be excused in USCIS' discretion under 8 C.F.R. § 103.5(a)(1)(i). The motion to reopen is dismissed as untimely.

ORDER: The motion to reopen is dismissed.