



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

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

In Re: 22801698

Date: OCT. 27, 2022

Appeal of National Benefits Center Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she derived U.S. citizenship from her father under section 320 of the Immigration and Nationality Act (the Act) section 320, 8 U.S.C. § 1431.

The Director of the National Benefits Center rejected the instant Form N-600, concluding that because the Applicant previously filed a Form N-600 (which was denied in 2005) she was not eligible to file another one pursuant to the regulations at 8 C.F.R. § 341.5(e), which provide that after an application for a certificate of citizenship has been denied and the time for appeal has expired,<sup>1</sup> U.S. Citizenship and Immigration Services will reject a subsequent application submitted by the same individual and the applicant will be instructed to submit a motion to reopen or reconsider. The Director further explained that because the period to appeal the 2005 denial of the Applicant's initial Form N-600 has expired, she could file a motion to reopen or reconsider the adverse decision.

The matter is now before us on appeal from the Director's decision rejecting the Applicant's second Form N-600 filing. The Applicant asserts that she did not timely appeal the denial of her first Form N-600 because she was a minor at the time. She submits additional evidence in support of her citizenship claim, including, her father's Certificate of Naturalization, and documents to establish that she resided in her father's custody in the United States as a lawful permanent resident before she turned 18 years of age. The record also contains a copy of the Applicant's U.S. passport issued to her by the U.S. Department of State in March 2020.

We acknowledge the Applicant's explanation of the untimely appeal filing and submission of additional evidence. However, we lack jurisdiction to review the 2005 denial of her first Form N-600, as neither the Act nor the regulations give us authority to accept and consider an appeal that has been filed late. 8 C.F.R. § 103.3(a)(2)(v)(B)(I). Furthermore, as the Director rejected the Applicant's second Form N-600, there is no merits-based decision for us to review. 8 C.F.R. § 103.2(a)(7)(ii). Accordingly, we must dismiss the Applicant's appeal.

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<sup>1</sup> The regulations at 8 C.F.R. § 103.3(a)(2)(i) provides that an affected party must file a complete appeal within 30 days after service of an unfavorable decision. If the decision is mailed, the 30-day period for submitting an appeal begins three days after it is mailed. 8 C.F.R. § 103.8(b).

Nevertheless, the regulations at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provide that if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director of the National Benefits Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). We will therefore return the matter to the Director. If the Director determines that the late appeal meets the requirements of a motion, the motion shall be granted and a new decision will be issued.

**ORDER:** The appeal is dismissed.