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U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 Mass, 3/F  
Washington, D.C. 20536

[REDACTED]

FILE [REDACTED]

Office: Dallas

Date:

MAY 08 2003

IN RE: Applicant:

[REDACTED]

APPLICATION:

Application for Certificate of Citizenship under Section 341(a)  
of the Immigration and Nationality Act, 8 U.S.C. § 1452(a)

ON BEHALF OF APPLICANT:

[REDACTED]

**PUBLIC COPY**

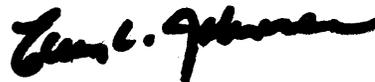
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Dallas, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on February 17, 1965, in Mexico. The applicant's father, [REDACTED] was born in Mexico in February 1944 and never had a claim to U.S. citizenship. The applicant's mother, [REDACTED] was born in May 1937 in the United States. The applicant's parents married each other on January 28, 1963. He was lawfully admitted for permanent residence after being classified as the child of a United States citizen (IR-2). The applicant claims that he acquired United States citizenship at birth under section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The district director determined that the record failed to establish that the applicant's United States citizen parent had been physically present in the United States or one of its outlying possessions for 10 years at the time of the applicant's birth, at least 5 of which were after age 14, as required under section 301(g) of the Act.

On appeal, counsel states that the affidavit submitted from [REDACTED] his mother's alleged supervisor on the farm of C.S. Sanders, demonstrates that the applicant's mother resided in the United States between 1953 and 1966. Counsel also states that the applicant's mother attended the baptism of some of her God-children and submits one baptismal certificate indicating that his mother, [REDACTED] was the sponsor of [REDACTED] at his baptism in Morton, Texas on October 25, 1959.

Section 301(g) of the Act in effect prior to November 14, 1986, provides, in pertinent part, that a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than 10 years, at least 5 of which were after attaining the age 14 years, shall be nationals and citizens of the United States at birth.

The affidavit from the applicant's mother's former supervisor, absent supporting documentation, is not sufficient to establish residency for the required period.

It is noted that the applicant was classified as an (IR-2) alien for immigrant visa purposes, and was lawfully admitted for permanent residence on May 17, 1980. Consular officers carefully review immigrant visa applications prior to issuing aliens the visas, especially when one of the parents is a U.S. citizen. Derivative U.S. citizens are not eligible for immigrant visas. It is, therefore, presumed that the applicant was found not to be a citizen when his visa was approved in 1980.



Pursuant to 8 C.F.R. § 341.2(c), the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met this burden of establishing his mother had been physically present in the United States a total of 10 years, 5 of which were after the age 14. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

APR 18 2003  
U.S. DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE