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U.S. Citizenship
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FILE:



Office: HOUSTON, TX

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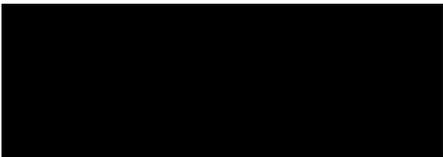
Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 301(a)(7) of the former Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The record reflects that the applicant was born on April 20, 1985, in Mexico. The applicant seeks a certificate of citizenship pursuant to section 301(a)(7) of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1401(a)(7), based on the claim that he derived United States citizenship through his mother.

The applicant's Form N-600, Application for Certificate of Citizenship (N-600 application) was denied by the district director based on a finding that neither of the applicant's parents were U.S. citizens. The district director found specifically that the applicant's N-600 application contained no information pertaining to the applicant's father. The district director found further that adverse information provided by the applicant's maternal grandparents and contained in the record, established that the applicant's mother (Ms. Gonzalez) was born in Mexico and was not a U.S. citizen.

Counsel asserts on appeal that the district director did not identify what statements were made by the applicant's maternal grandparents, or the context in which the statements were made. Counsel concludes that the finding that [REDACTED] is not a U.S. citizen based on her parent's statements is therefore improper, and that the applicant is entitled to a certificate of citizenship based on his mother's U.S. citizenship.

The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth." *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026,1029 (9th Cir. 2000) (citations omitted). The applicant was born on April 20, 1985. Section 301(a)(7) of the former Act is therefore applicable to his derivative citizenship claim.

Section 301(a)(7) of the former Act, 8 U.S.C. § 1401(a)(7) states in pertinent part that:

The following shall be nationals and citizens of the United States at birth: . . . a person born outside the geographical limits of the United States . . . 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 . . . for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years.

The record contains the following evidence relating to [REDACTED] U.S. citizenship status:

A Texas Attested Record of Birth Certificate, dated April 26, 1985, stating that [REDACTED] was born [REDACTED] on April 21, 1967, in Starr County, Texas, and that her birth was filed with the Starr County Clerk office on May 9, 1967.

A Texas Department of Health, Bureau of Vital Statistics, "Addendum" to [REDACTED] birth certificate, dated May 15, 1986. The Addendum attaches "Conflicting Information" to [REDACTED] record of birth, and states that [REDACTED] mother [REDACTED] and father [REDACTED] stated under oath that [REDACTED] was born in [REDACTED] Tamps., Mexico.

A Texas Department of Health, Bureau of Vital Statistics, "Notification of Refusal", dated May 12, 1997, reflecting the Department's refusal to issue a certified copy of Ms.

birth record, based on adverse citizenship information obtained from Ms. [REDACTED] parents.

A June 5, 1970, Immigration and Naturalization Service (Service, now Immigration and Customs Enforcement, ICE). Investigative Report (Report), stating that [REDACTED] was falsely registered in Starr County, Texas, by a midwife named, [REDACTED]. The Report states that [REDACTED] parents, [REDACTED] admitted in sworn statements that [REDACTED] was born in [REDACTED] Tamps., Mexico. The Report states further that the midwife, [REDACTED] that she did not attend the birth of [REDACTED] and that she falsely registered [REDACTED] birth in Texas.

Two March 12, 1970, Sworn Affidavits made to Service Investigative officers by [REDACTED] stating that [REDACTED] born in [REDACTED] Tamps., Mexico on April 17, 1967. The affidavits state that [REDACTED] did not record [REDACTED] birth in Mexico, and that they instead paid a Texas midwife, M [REDACTED] \$50.00 to falsely register [REDACTED] birth in Texas.

An October 22, 1969, Sworn Statement to a Service investigator, by [REDACTED] stating that she did not attend the birth of [REDACTED] and that she falsely registered her birth after being paid \$50.00 by [REDACTED] parents.

The AAO notes that counsel submitted no new evidence or information on appeal regarding [REDACTED] U.S. citizenship status.

Based on the evidence contained in the record, the AAO finds that the applicant has failed to establish that his mother is a U.S. citizen, as required by section 301(a)(7) of the former Act.

8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. In this case, the burden has not been met. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.