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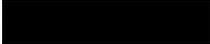
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEW YORK, NEW YORK

Date: JUL 14 2005

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship pursuant to § 201(g) of the Nationality Act of 1940; 8 U.S.C. § 601(g).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

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

The record reflects that the applicant was born in Poland on October 10, 1944. The applicant's mother was born in the United States on May 1, 1907, and she was a U.S. citizen. The applicant's father was not a U.S. citizen. The applicant's parents married in Poland in 1934.

The district director denied the application based on the applicant's failure to establish that her U.S. citizen mother resided in the U.S. for a total of ten years, including five years after she turned sixteen years old, as required by § 201(g) of the Nationality Act of 1940 (Nationality Act); 8 U.S.C. § 601(g). On appeal, the applicant states that her mother resided in the United States from her birth until 1934, when she was twenty seven years old; therefore, her mother met the residency requirement described in § 201(g) of the Nationality Act. The AAO finds that the evidence on the record does not establish this assertion, and the applicant is ineligible for a certificate of citizenship based on her 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 in 1944; therefore, § 201(g) of the Nationality Act applies to her derivative citizenship claim.

Section 201(g) of the Nationality Act states in pertinent part that:

A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien.

The applicant must establish that his mother was a U.S. citizen at the time of his birth. He must also establish that his mother was present in the United States for a total of ten years between her birth on May 1, 1907 and his birth on October 10, 1944, including at least five years after his mother's sixteenth birthday on May 1, 1923. The evidence pertaining to the applicant's mother's residence in the United States during the requisite time period consists of the following:

The applicant's mother's baptismal certificate from a Pennsylvania church showing she was baptised in 1907;

A passport application signed in Poland in 1923 by the applicant's mother indicating that she resided outside the United States from 1908 to 1923;

A statement by the applicant's mother's sister asserting that the applicant's mother lived in the United States prior to 1928 and from 1928 to 1933 in Far Rockaway, New York; and

A letter written to the applicant's mother, dated 1933, showing a New York address.

The record contains insufficient evidence in support of the claim that the applicant's mother resided in the United States for ten years between 1907 and 1944. It is clear that the applicant's mother was outside the United States from at least 1908 to 1923, and her date of return to the United States is unknown. The

applicant's aunt's affidavit lacks probative value. The affidavit fails to establish the exact dates and places of the applicant's mother's residence in the United States, and it lacks specific detail regarding the dates or frequency and level of contact between the affiant and the applicant's mother. Furthermore, the affidavit lacks corroborative evidence and is vague and lacking in material detail. The only other document indicating the applicant's mother was in the United States after her sixteenth birthday in 1923 is the letter sent to her from her friend in 1933. The letter does not indicate that the applicant's mother resided in the United States or the length of time she was present in the United States. In sum, the totality of the evidence does not establish the requisite period of U.S. residency of the applicant's mother.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The AAO finds that the applicant has failed to establish by a preponderance of the evidence that her mother resided in the United States for a total of ten years, at least five of which were after the age of sixteen, as required by § 201(g) of the Nationality Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.