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U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

JUN 14 2005



FILE: [Redacted] Office: EL PASO, TEXAS Date:

IN RE: Applicant: [Redacted]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, El Paso, 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 in Mexico on March 10, 1945. The applicant's mother was not a U.S. citizen. The applicant's father was born in the United States in 1927, and he is a U.S. citizen. The applicant's parents married on August 22, 1945, legitimizing the applicant. The district director denied the application, because the applicant failed to establish that her U.S. citizen father resided in the U.S. for five years after he turned sixteen years old, as set forth in § 201(g) of the Nationality Act of 1940 (Nationality Act); 8 U.S.C. § 601(g). On appeal, the applicant asserts that since her siblings and half-siblings have been able to normalize their immigration status in the United States, she should qualify for a certificate of 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 (9<sup>th</sup> Cir. 2000) (citations omitted). The applicant was born in 1945; 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.

In the present matter, the record reflects that the applicant was born when her father was eighteen years old. Hence, it would not be possible to establish that her father resided in the U.S. for at least five years after he turned sixteen and prior to the applicant's birth. The applicant cannot fulfill the requirements for a certificate of citizenship pursuant to § 201(g) of the Nationality Act.

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 applicant has failed to meet the burden of proof of establishing U.S. citizenship. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.