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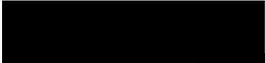


**U.S. Citizenship
and Immigration
Services**

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FILE:  Office: HARLINGEN, TX Date: **NOV 29 2005**

IN RE: Applicant: 

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

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, Harlingen, Texas. The matter 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 April 14, 1964. The applicant's mother, [REDACTED] was born in Texas on January 7, 1931, and she was a U.S. citizen. The applicant's father, [REDACTED] was born in Mexico on July 11, 1922, and he was not a U.S. citizen. The applicant's parents married in Mexico on February 28, 1949. 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) (now known as section 301(g) of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1401(g)), based on the claim that she derived U.S. citizenship at birth through her mother.

The district director found the applicant had failed to establish that her mother [REDACTED] was physically present in the United States for ten years prior to the applicant's birth, at least five years of which occurred after [REDACTED] reached the age of fourteen, as required by section 301(a)(7) of the former Act. The application was denied accordingly.

The applicant asserts on appeal that she believes the evidence submitted establishes her mother was physically present in the United States for the requisite period of time set forth in section 301(a)(7) of the former Act, and that she is therefore entitled to 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 14, 1964. Section 301(a)(7) of the former Act is therefore applicable to her citizenship claim.

Section 301(a)(7) of the former Act 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.

In the present matter, the applicant must establish that her mother was physically present in the U.S. for ten years between January 7, 1931 and April 14, 1964, and that five of those years occurred after January 7, 1945, when [REDACTED] turned fourteen.

The evidence relating to [REDACTED] physical presence in the U.S. during the requisite time period consists of the following:

A birth certificate reflecting that [REDACTED] was born in Mercedes, Texas on January 7, 1931.

A Certificate of Baptism reflecting that [REDACTED] was baptized at the Church of Our Lady of Mercy in Mercedes, Texas on May 24, 1931.

A letter signed on December 30, 2000 by [REDACTED] stating that based on

conversations with the applicant and with Pastor [REDACTED] of the San Martin De Porres Catholic Church, and a review of a photo, he acknowledges that [REDACTED] received her First Communion in 1939, at West Phalia Parish in Waco, Texas.

A birth certificate reflecting that [REDACTED] sister, [REDACTED] was born in Texas on August 11, 1936.

A November 7, 1997, affidavit signed by [REDACTED] stating that she is Ms. [REDACTED] mother, that she has lived her entire life in the United States, that [REDACTED] and her siblings were born in Texas, and that the family lived in the U.S. throughout their lives.

A November 7, 1997, affidavit signed by [REDACTED] stating that she is Ms. [REDACTED] sister, that [REDACTED] lived in the U.S. with her parents and siblings, that she and [REDACTED] attended school for a short period in Texas, and that she later moved to [REDACTED] and later married.

A January 4, 2001 affidavit signed by [REDACTED] stating that [REDACTED] was a good friend and that she was born in the U.S. and lived her life in the United States.

A marriage certificate reflecting that [REDACTED] married [REDACTED] in Mexico on February 28, 1949 at the age of eighteen.

The AAO finds that a review of the evidence presented establishes by a preponderance of the evidence that [REDACTED] was physically present in the U.S. between 1931 and 1939. The AAO finds, however, that the applicant has failed to establish by a preponderance of the evidence that her mother was physically present in the U.S. for ten years prior to the applicant's birth, at least five years of which occurred after [REDACTED] fourteenth birthday in 1945.

The AAO finds that the affidavits signed by [REDACTED] well as the affidavits signed by [REDACTED] mother and sister are vague and lack corroborative evidence and material detail relating to the dates and places of [REDACTED] residence in the United States. Moreover, the AAO notes that even if it were established that [REDACTED] resided with her family in Texas until her marriage, [REDACTED] marriage in Mexico occurred four, rather than five, years after her fourteenth birthday, and the record contains no evidence to demonstrate that [REDACTED] lived in the United States after her marriage.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. The applicant has failed to meet her burden in the present matter. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.