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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: HARLINGEN, TEXAS Date: SEP 26 2005

IN RE: Applicant: [REDACTED]

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 the applicant was born in Mexico on May 3, 1967. The applicant's mother, [REDACTED] was born in Texas on April 19, 1931.¹ The applicant's father is not a U.S. citizen. The applicant's parents married in Mexico on February 26, 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 he derived U.S. citizenship at birth through her mother.

The district director found the applicant had failed to establish that her mother 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. The application was denied accordingly.

On appeal, the applicant asserts that many friends know her mother as a U.S. citizen, and that Social Security Administration records reflect that [REDACTED] is a U.S. citizen. To support her assertions, the applicant refers to attached affidavits. The AAO notes that the record contains no Social Security Administration evidence or documentation.

"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 Mexico on May 3, 1967. 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 United States for ten years between April 19, 1931 and May 3, 1967, and that five years occurred after April 19, 1945, when [REDACTED] turned fourteen.

The record contains the following evidence relating to [REDACTED] physical presence in the United States during the requisite time period:

A Delayed Certificate of Birth reflecting that [REDACTED] was born in Cameron County, Texas on April 19, 1931.

¹ The Record of Proceedings does not contain a copy of the applicant's birth certificate. The AAO therefore has no evidence of the applicant's birth [REDACTED]. The AAO notes, however, that the district director's decision accepts [REDACTED] the applicant's biological mother. The decision also accepts the applicant's birth date as set forth in his Application for Certificate of Citizenship. The AAO will therefore assume, for purposes of the present decision, that the applicant's birth date is correct and that [REDACTED] the applicant's biological mother.

A Certificate of Baptism, reflecting that [REDACTED] was baptized at Our Lady of Guadalupe Church in Brownsville, Texas on August 3, 1931.

An affidavit dated November 17, 1996 and signed by [REDACTED] stating that [REDACTED] rented a house from her grandmother in Monte Alto, Texas from 1961 to 1963.

An affidavit dated November 13, 1996 and signed by [REDACTED] stating that [REDACTED] is a family friend and worked for his father between 1953 and 1963. The AAO notes that the affidavit contains a written notation reflecting that the affiant was thirty-seven years old on December 6, 2000. Based on this information, the affiant was born in 1963.

An affidavit signed on October 3, 1994 by [REDACTED] stating that she was born on April 4, 1913 and that she has known [REDACTED] since 1934. The affiant states that [REDACTED] was born in the U.S. and is a U.S. citizen, and that [REDACTED] married name is [REDACTED].

An affidavit signed on October 5, 1994 by [REDACTED] stating that he has known [REDACTED] since 1932, and that [REDACTED] was born in the U.S. and is a U.S. citizen. The affiant states that [REDACTED] married name is [REDACTED].

An affidavit signed on October 3, 1994 by [REDACTED] stating that she was born on August 4, 1909 and that she has known [REDACTED] since 1931. The affiant states that [REDACTED] was born in the U.S. and is a U.S. citizen, and that [REDACTED] married name is [REDACTED].

An affidavit signed on April 29, 1994 by [REDACTED] stating that they have known [REDACTED] since 1962, and that she helped them with their children and their housework.

An affidavit signed on April 27, 1994 by [REDACTED] stating that he has known [REDACTED] since 1955, and that she cared for his mother-in-law for six months out the year until 1970.

An informational statement signed by [REDACTED] stating, in pertinent part that she lived in at [REDACTED] home in Edcouch, Texas from 1955 to 1970, and at [REDACTED] house in Edcouch Texas from 1962 to 1984.

A Mexican marriage certificate reflecting that [REDACTED] married [REDACTED] in Reynosa, Tamaulipas, Mexico on February 26, 1949.

The AAO finds that the birth and baptismal certificate evidence submitted by the applicant establishes, by a preponderance of the evidence, that [REDACTED] is a U.S. citizen and that she was physically present in the United States in 1931. The AAO notes that the district director's decision found the applicant had established that his mother was physically present in the United States in 1931, 1932, 1933 and 1934. The AAO finds, however, that the applicant has failed to establish by a preponderance of the evidence that [REDACTED] was physically present in the United States at any time after 1931. The AAO finds that the affidavits submitted by the applicant lack probative value in that they contain no corroborating identity and source of knowledge information relating to the affiants. In addition, the affidavits contain no corroborating evidence or

information to substantiate their employment and residence claims and they lack basic and material detail regarding [REDACTED] physical presence in the United States.

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. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.