

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

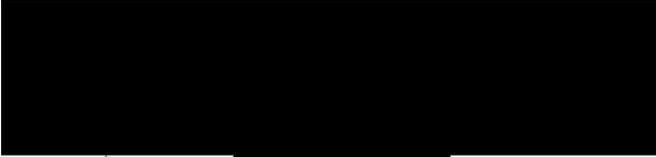
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

E2

PUBLIC COPY



FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **OCT 04 2006**

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship pursuant to Section 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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, 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 Venezuela on December 27, 1946. The applicant's mother, [REDACTED] was born on March 13, 1926 in Michigan, and she was a U.S. citizen at the time of the applicant's birth. The applicant's father, [REDACTED] was born in Venezuela. The applicant has not provided whether his father was a citizen of the United States, and the record does not reflect that he was. The applicant's parents married on December 29, 1945 in Michigan. The applicant seeks a Certificate of Citizenship based on the claim that he acquired U.S. citizenship at birth through his mother pursuant to section 201(g) of the Nationality Act of 1940; 8 U.S.C. § 601(g) (now known as section 301(g) of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1401(g)).

The director determined that the applicant failed to establish that his U.S. citizen mother met the residence requirement of section 201(g) of the Nationality Act of 1940 (Nationality Act); 8 U.S.C. § 601(g), as she did not reside in the United States for five years between the time she turned sixteen years old and the applicant's birth. *Decision of the Director*, dated May 17, 2006. The director further commented that the applicant has not shown that his mother met the exception to the residence requirement, as she was not in the U.S. military. *Id.*

On appeal, the applicant contends that he provided sufficient evidence for the record to show that his mother met the residency requirement of section 201(g) of the former Act.

The record contains a statement from the applicant; a copy of the applicant's mother's U.S. passport; a copy of the applicant's parents' marriage certificate; a copy of the applicant's birth certificate; a copy of a letter from Norway High School in Michigan verifying the applicant's mother's attendance; military records for the applicant's relatives, and; a copy of the applicant's passport. The entire record was considered in rendering this decision.

"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 December 27, 1946. Section 201(g) of the Nationality Act is therefore applicable to his 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 applicant must establish that his mother resided in the United States for ten years between March 13, 1926 and December 27, 1946, and that five of those years occurred after March 13, 1942, when the applicant's mother reached age sixteen.

Upon review, the present application is not approvable as a matter of law, as the applicant's mother does not meet the residency requirement of section 201(g) of the former Act. The applicant's mother reached the age of sixteen on March 13, 1942, and the applicant was born four years and nine months later on December 27,

1946. Thus, the applicant's mother could not have resided in the United States for five years between the time she reached age sixteen and the date of the applicant's birth, and she therefore did not meet the residence requirement of section 201(g) of the former Act. As the applicant has not shown that his mother engaged in U.S. military service, he has not established that she meets an exception to the residence requirement. Based on the foregoing, the application may not be approved.

The regulation at 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 his mother resided in the United States for at least five years after the age of sixteen and prior to the applicant's birth, as required by section 201(g) of the former Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.