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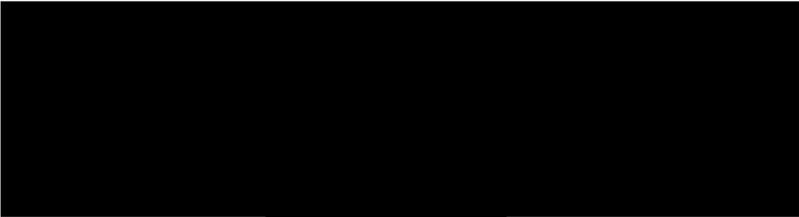
U.S. Department of Homeland Security  
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U.S. Citizenship  
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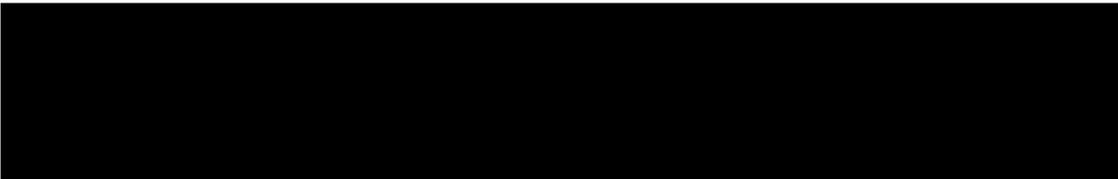


FILE: [Redacted] Office: DALLAS, TEXAS Date: **AUG 17 2007**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Sections 301(g) of the Immigration and Nationality Act; 8 U.S.C. § 1401(g).

ON BEHALF OF APPLICANT:



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 District Director, Dallas, 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 on November 27, 1982 in Mexico. The applicant's mother, [REDACTED], was born on February 9, 1965 in North Carolina. The applicant's father, [REDACTED] is a native and citizen of Mexico. The applicant's parents were married on May 4, 1980. The applicant seeks a certificate of citizenship pursuant to section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g), based on the claim that she acquired U.S. citizenship at birth through her mother.

The district director denied the applicant's citizenship claim upon finding that the applicant had failed to establish eligibility under sections 301(g), 320 or 322 of the Act, 8 U.S.C. §§ 1401(g), 1431, 1433. The application was accordingly denied. The application was initially denied on December 9, 2005, but subsequently reopened on April 13, 2006. The application was denied by the district director on November 20, 2006.

On appeal, the applicant, through counsel, contends that she should be granted citizenship due to the "favorable factors which demonstrate that she has and will continue to be a law-abiding and socially-responsible United States Citizen." See Applicant's Appeal Brief at ¶ 14. The applicant maintains that "[t]o deny her plea for citizenship would create an exceptional and extremely unusual hardship." *Id.* at ¶ 12. The applicant suggests that citizenship law has evolved over the years to address "discriminatory and oppressive statutes over time." *Id.* at ¶ 10.

"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 in this case was born in 1982.

Section 301(g) of the Act, 8 U.S.C. § 1401(g), as in effect in 1982, provided that

a person born outside the geographical limits of the United States and its outlying possessions 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 or its outlying possessions for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years [shall be a citizen of the United States]

In order to acquire U.S. citizenship under this provision, the applicant must establish that her mother was present in the United States for a period of ten years prior to 1982, at least five of which were after she attained the age of 14 (in 1979). The applicant's mother was 17 when the applicant was born in 1965. She is therefore unable to establish the required physical presence, and thus statutorily ineligible for citizenship under 301(g) of the Act, 8 U.S.C. § 1401(g).

The AAO notes that section 320 and 322 of the Act were amended by the Child Citizenship Act of 2000 (CCA). These amendments took effect on February 27, 2001 and benefit all persons, such as the applicant, who had not yet reached their 18th birthdays. The applicant, however, is ineligible to acquire U.S. citizenship

under section 320 of the Act (because she was not admitted as a lawful permanent resident before reaching the age of 18) or under section 322 of the Act (because, among other things, she was not residing outside the United States).

The applicant contends that she should be granted U.S. citizenship in the exercise of discretion or on constitutional grounds. The AAO notes that its appellate jurisdiction is limited, and that it has no jurisdiction outside of the matters listed in the regulations at 8 C.F.R. § 103.1(f)(3)(iii) (2003) and 8 C.F.R. § 2.1 (2004). The AAO further notes that the requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress, and that CIS lacks statutory authority to issue a Certificate of Citizenship when an applicant fails to meet the relevant statutory provisions set forth in the Act.

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; *see also United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967).

The applicant's mother was not physically present in the United States for the required five years after attaining the age of 14, but prior to the applicant's birth. Therefore, the AAO must conclude that the applicant is ineligible to acquire U.S. citizenship and her appeal will be dismissed.

**ORDER:** The appeal is dismissed.