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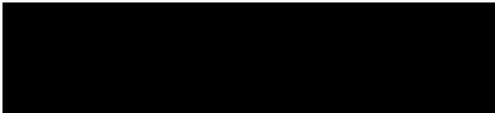
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



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

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

AUG 29 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center and 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 2, 1943. The applicant's parents, as indicated on her birth certificate, are [REDACTED] and [REDACTED]. The applicant's father was born in Phoenix, Arizona on May 28, 1916. He served in the U.S. Armed Forces from September to December 1944. The applicant seeks a certificate of citizenship under section 201(g) of the Nationality Act of 1940, 8 U.S.C. § 601(g), based on the claim that she acquired U.S. citizenship at birth through her U.S. citizen father.

The district director found that the applicant had established that her father was born in the United States in 1916, but had not established that he resided in the United States at any time prior to 1943. The district director thus concluded that the applicant was ineligible for citizenship under section 201(g) of the Nationality Act of 1940, 8 U.S.C. § 601(g), and denied the application accordingly.

On appeal, the applicant submits a translation of her birth certificate, her marriage and divorce certificates, her father's record of enlistment and honorable discharge, her father's death certificate, and her sibling's immigration file numbers.

"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 in the present matter was born in 1943. Section 201(g) of the Nationality Act of 1940, 8 U.S.C. § 601(g), is therefore applicable to his citizenship claim.

Section 201(g) of the Nationality Act of 1940 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 her father resided in the U.S. for ten years between May 28, 1916 and April 2, 1943, and that five of those years occurred after May 28, 1932, the applicant's father's 16th birthday.

The Form N-600, Application for Certificate of Citizenship, does not indicate any period of time when the applicant's father resided in the United States. The record does not contain any evidence of the applicant's father's U.S. residence prior to the applicant's birth.

The AAO notes "[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship." *Fedorenko v United States*, 449 U.S. 490, 506 (1981). 8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is "probably true" or "more likely than not." *Matter of E-M-*,

20 I&N Dec. 77, 79-80 (Comm. 1989). The applicant in the present case has not met her burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.