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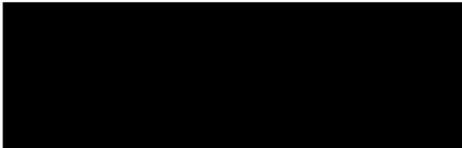


FILE: [REDACTED] Office: HARLINGEN, TEXAS Date: FEB 26 2007

IN RE: Applicant: [REDACTED]

PETITION: 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 PETITIONER:



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 cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Harlingen, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The record reflects that the applicant was born in Mexico on November 11, 1978. The applicant asserts that his mother was a U.S. citizen at the time of his birth. The applicant does not claim that his father was a U.S. citizen. The applicant seeks a certificate of citizenship pursuant to section 301 of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1401, based on the claim that he acquired U.S. citizenship at birth through his U.S. citizen mother.

The district director concluded that the applicant failed to establish that his mother was physically present in the United States for the requisite time period set forth in section 301(a)(7) of the former Act. The application was denied accordingly.

On appeal, counsel for the applicant stated on Form I-290B that he "will be filing a separate brief within 30 days, which will state the basis of [the applicant's] position." *Statement from counsel on Form I-290B*, dated November 7, 2005. The appeal was filed on November 7, 2005. However, as of January 16, 2007, the AAO had received no further documentation or correspondence from the applicant or counsel. On January 16, 2007, the AAO sent a facsimile to counsel with notice that a brief or additional evidence had not been received, and affording five days in which to provide a copy of any missing filing. As of the date of this decision, the AAO has not received a response to the facsimile, and the record is deemed complete.

"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 1978. Section 301(a)(7) of the former Act therefore applies to the present case.

Section 301(a)(7) of the former Act states 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 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: *Provided*, That any periods of honorable service in the Armed Forces of the United States by such citizen parent may be included in computing the physical presence requirements of this paragraph.

Upon review, the AAO concurs with the district director's decision and affirms the denial of the application.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

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 applicant has failed to meet his burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.