



U.S. Citizenship
and Immigration
Services

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FILE:

Office: HARLINGEN, TX

Date: JAN 09 2007

IN RE:

Applicant:

APPLICATION: Application for Certificate of Citizenship pursuant to Former Section 301(a)(7) of the
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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Harlingen, 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 December 23, 1969 in Mexico. The applicant's mother, [REDACTED] was born on February 16, 1940 and acquired U.S. citizenship at birth. The applicant's father, [REDACTED] was a Mexican citizen at the time of the applicant's birth and the record does not indicate that he has acquired another nationality. The applicant's parents were married on October 27, 1962. The applicant seeks to establish U.S. citizenship pursuant to section 301(a)(7) of the Immigration and Nationality Act of 1952 (1952 Act); 8 U.S.C. § 1401(a)(7), based on the claim that she acquired U.S. citizenship at birth through her mother.

"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 this case was born in Mexico on December 23, 1969. Therefore, she must establish her claim to U.S. citizenship under section 301(a)(7) of the 1952 Act, the applicable immigration statute in effect in 1969.

Section 301(a)(7) of the 1952 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.

The district director denied the Form N-600 on June 9, 2006 because he found the record did not establish that the applicant's U.S. citizen mother had been physically present in the United States for periods totaling ten years, at least five of which occurred after she reached 14 years of age. On appeal, the applicant submits additional evidence to establish her mother's presence in the United States prior to her 1969 birth.

In support of the Form N-600, Application for Certificate of Citizenship, the applicant has submitted the following evidence with regard to [REDACTED] U.S. residence:

- A Social Security Administration statement of FICA earnings for [REDACTED] Ms. [REDACTED] mother, from 1952 through 1988.
- Census records information for the years 1900, 1930, 1940 and 1950. The records for 1900 and 1930 establish the presence of Ms. [REDACTED] grandmother, [REDACTED], and [REDACTED] in the United States in those years. Census records for 1940 do not confirm the presence of [REDACTED] in the United States; the 1950 Census, however, reports her parents as residing in Weslaco, Texas.

- Birth certificates showing that Ms. [REDACTED] aunts, Rosalinda, Guadalupe, and [REDACTED] were born in the United States.
- Sworn statements from Ms. [REDACTED] aunts, [REDACTED] and [REDACTED] regarding her and her mother's residence and employment in the United States, beginning in 1950, when Ms. [REDACTED] was ten years old; a statement from a family friend, [REDACTED], who met Ms. [REDACTED] and her mother in 1955 and, until 1962 was their landlord; and a declaration from A [REDACTED], who states that he has known Ms. [REDACTED] since 1954 because he had previously worked with her father. Mr. [REDACTED] indicates that from the 1960s until 1975, he knows Ms. [REDACTED] to have been living and working in the United States.
- Photographs of the locations where M [REDACTED] s claims to have lived and worked while living with [REDACTED]
- A payroll record for M [REDACTED] for the week ending February 24, 1968, which does not identify the employer or the nature of the business.
- A statement from the Reverend [REDACTED] of the Mexican [REDACTED] where Ms. [REDACTED]' grandparents were married. Reverend [REDACTED] states that Ms. [REDACTED]' grandparents and their children were active members of the church during the 1950s, when Reverend [REDACTED] was pastor.
- Receipts for U.S. postal and [REDACTED] & Sons money orders, as well as a Texas Employment Commission card, with Ms. [REDACTED] name written on the back. The U.S. postal receipts do not indicate to whom they were issued. The [REDACTED] & Sons receipts, dated 1967, and are issued to [REDACTED] and "[REDACTED] isa" and state they are "For Rent."

While the AAO notes the documentation submitted by the applicant, it does not find it sufficient to establish that her mother resided in the United States for the ten-year period required by section 301(a)(7) of the 1952 Act.

The social security earnings statement submitted by the applicant for the periods prior to the applicant's birth – 1952-1956, 1957-1967 and 1969 – relates to the employment of her grandmother, [REDACTED]. Accordingly, the statement is proof only of the employment of the applicant's grandmother in the United States. It does not establish that the applicant's mother was also present in the United States during these same periods. The same holds true for the Census reports from 1900, 1930, 1940 and 1950; the birth certificates showing that several of Ms. [REDACTED] aunts were born in the United States and the statement from the Reverend [REDACTED] regarding the membership of Ms. [REDACTED] mother in the Mexican [REDACTED] during the 1950s. While this documentation may point to the U.S. residence of the applicant's grandmother, it is not proof of her mother's presence in the United States prior to her 1969 birth.

The photographs of the locations where Ms. [REDACTED] claims to have lived and worked in the United States do not prove that she resided at these locations. The U.S. postal receipts provide no indication they were issued to Ms. [REDACTED] the [REDACTED] & Sons receipts identify the recipient only as "[REDACTED]" and "[REDACTED]". Moreover, **these receipts, like the just noted photographs, are not proof that Ms. [REDACTED] was living in the United States at the time she acquired them.** The undated Texas Employment Commission card, with Ms. [REDACTED] name written on the back, also fails to demonstrate her U.S. residence within the requisite period. Again, her possession of the card does not prove that she was living in the United States prior to the applicant's birth. The payroll record for the week ending February 24, 1968 establishes only that Ms. [REDACTED] was employed for one week by an unidentified employer in Weslaco, Texas.

Although the sworn statements from Ms. [REDACTED] aunts, and family friends indicate that she was living in the United States as early as 1950, the record contains no documentary evidence that establishes her physical presence in the United States during the identified time periods. In the absence of some type of corroborating evidence – e.g., school, church, medical or tax records, **correspondence or employment records, including pay stubs/receipts** – to support the claims made by Ms. [REDACTED] family and friends, their affidavits do not carry sufficient evidentiary weight to establish that she was physically present in the United States for the requisite time period prior to the applicant's 1969 birth. Based on the record, the applicant has not established that prior to her birth, her mother had resided in the United States for a total period of ten years, five of which followed her mother's 14th birthday. Accordingly, the appeal will be dismissed.

Moreover, the AAO notes that the affidavits submitted by the applicant in support of the Form N-600 have not been translated, as required by regulation. When submitting a document containing foreign language to U.S. Citizenship and Immigration Services, an applicant must provide a "full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the applicant has also failed to comply with the filing requirements for foreign language documents and, for this reason as well, the appeal will be dismissed.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the applicant to establish the claimed citizenship by a preponderance of the evidence. For the reasons discussed above, the evidence submitted by the applicant does not meet this standard.

ORDER: The appeal is dismissed.