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U.S. Citizenship
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Services

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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 02 2007

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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 application was denied by the Director of the 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 on July 6, 1956 in Venezuela. The applicant's father, [REDACTED] was born in Colombia in 1929 to a U.S. citizen parent. The applicant's mother was a citizen of Venezuela. The applicant claims that she acquired U.S. citizenship at birth through her U.S. citizen father.

The director evaluated the applicant's eligibility for citizenship under section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7). The director found that the applicant failed to establish that her father had the required physical presence in the United States. The application was denied accordingly.

On appeal, the applicant submits a brief, a copy of the applicant's birth certificate, a copy of the applicant's father's certificate of military service and a copy of the applicant's grandfather's passport. The AAO notes that there are no other relevant documents in the record.

"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 July 6, 1956. Section 301(a)(7) of the Act, the predecessor to the current section 301(g) of the Act, is therefore applicable to the applicant's citizenship claim.

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.

The record includes a certificate of military service evidencing the applicant's father's service in the Armed Forces between May 1946 and September 1947. The record contains no other evidence of the applicant's father's physical presence. The AAO thus finds that the applicant has failed to establish that her father was physically present in the United States for ten years, at least five of which were after attaining the age of 14. The AAO therefore concludes that the applicant did not acquire U.S. citizenship at birth.

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.