



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: BOSTON, MA Date: JUL 02 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to Section 301(a)(7) of the Immigration and Nationality Act of 1952, 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant filed the Form N-600, Application for Certificate of Citizenship on May 19, 1999. On December 1, 2000, the District Director, Boston, Massachusetts denied the application. The applicant timely appealed the decision to the Administrative Appeals Office (AAO). That appeal was never forwarded to the AAO. The California Service Center forwarded the un-adjudicated appeal to the AAO in December 2006. The appeal will be sustained.

The record reflects that the applicant was born on March 13, 1981 in France. The applicant's father, [REDACTED], was born in Massachusetts on August 21, 1942. The applicant's mother, [REDACTED] was born in France on November 25, 1954 and the record does not indicate that she is other than a citizen of France. The applicant's parents married on July 10, 1980.

Although the district director did not find the record to establish that [REDACTED] was the applicant's father for the purposes of deriving U.S. citizenship, the AAO notes that the documentation before it on appeal establishes that the applicant is the biological son of [REDACTED] and that he was born following his parents' lawful marriage. This evidence includes his parents' marriage certificate, a declaration from his mother, and the results of a December 28, 2000 DNA test which found the probability of [REDACTED] paternity of the applicant to be 99.999%. Accordingly, he is the legitimate son of a U.S. citizen father. The question before the AAO is whether the applicant automatically acquired U.S. citizenship from his father at the time of his birth.

"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 France on March 13, 1981. Therefore, he must establish his claim to U.S. citizenship under section 301(a)(7) of the 1952 Immigration and Nationality Act (1952 Act), the applicable immigration statute in effect in 1981.

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.

To establish that [REDACTED] was physically present in the United States for a period of at least ten years, five of which followed his 14th birthday, the applicant submits the following relevant documentation: statements from [REDACTED] Town Clerk, Wakefield, Massachusetts, that indicate [REDACTED] has been a resident of Wakefield since 1956 and a registered voter since 1970; a letter from [REDACTED] cousin and attorney, that states [REDACTED] had been a resident and physically located in the United States his entire life; [REDACTED] dental records for the period December 1968 to November 1990; [REDACTED] academic transcripts from Chamberlayne Junior College for the quarters beginning November 30, 1961, February 28, 1962 and September 25, 1962; Massachusetts election results for 1968, 1970 and 1972, which show that [REDACTED] ran for office as a Republican candidate in each of these years; car loans taken out by [REDACTED] in 1969 and 1977 showing [REDACTED]'s address in Wakefield, Massachusetts; a

loan taken out by [REDACTED] in 1969, with a payment slip showing his address in Wakefield, Massachusetts; a 1970 store rental payment showing a Boston address for [REDACTED]; a 1970 Liberty Mutual insurance policy showing [REDACTED] address in Wakefield Massachusetts; and a 1970 U-Haul truck rental contract listing [REDACTED]' address as being in Wakefield, Massachusetts.

None of the submitted documents independently establish [REDACTED] as being physically present in the United States for a total of ten years prior to the applicant's birth, five of which followed [REDACTED] 14th birthday. However, when considered collectively, they demonstrate, by a preponderance of the evidence, that [REDACTED] was physically present in the United States for the periods, 1961-1962 and 1968-1979, a total of thirteen years, all of which follow [REDACTED] 14th birthday. Therefore, the applicant has satisfied the requirements of section 301(a)(7) of the Act and has established that he acquired U.S. citizenship from his father at the time of his birth. Accordingly, the appeal will be sustained and the application will be approved.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the applicant to establish the claim of citizenship by a preponderance of the evidence. The applicant has met his burden in this proceeding.

ORDER: The appeal is sustained. The application is approved.