

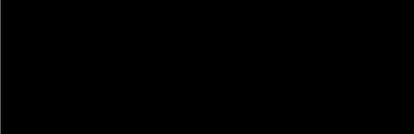


U.S. Citizenship
and Immigration
Services

Er

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



FILE: [REDACTED] Office: CHICAGO, IL

Date: MAY 03 2007

IN RE: Applicant: [REDACTED]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application denied.

The record reflects that the applicant was born in Poland on August 30, 1945. The applicant's mother was born a U.S. citizen in Chicago, Illinois on August 2, 1918. The applicant's father is not a U.S. citizen. The record reflects that the applicant's parents married in Poland in 1941. The applicant presently seeks a certificate of citizenship pursuant to section 201(g) of the Nationality Act of 1940; 8 U.S.C. § 601(g), based on the claim that he acquired U.S. citizenship at birth through his mother.

The district director determined the applicant had failed to establish that prior to his birth, his mother met U.S. residence requirements necessary for the transmission of U.S. citizenship to her child. The application was denied accordingly.

On appeal, the applicant submits a copy of his mother's U.S. passport as evidence of her U.S. citizenship, and he asserts that entry stamps contained in the passport establish that his mother lived in the United States as an adult.

"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." *See Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 (9th Cir. 2000) (citations omitted). The applicant was born on August 30, 1945. Section 201(g) of the Nationality Act of 1940 (the Nationality Act) is therefore applicable to his U.S. citizenship claim.¹

Section 201(g) of the Nationality Act provides in pertinent part that U.S. citizenship may be transmitted to:

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

In the present matter, the applicant must establish that his mother resided in the United States for ten years between August 2, 1918 and August 30, 1945, at least five years of which occurred after August 2, 1934, when his mother turned sixteen.

The record contains the following evidence relating to the applicant's mother's U.S. residence during the requisite time period:

A statement made by the applicant in his Form N-600, Application for Citizenship (Form N-600) indicating that his mother resided in the U.S. from August 2, 1918 until she was about ten years old, when she moved with her family to Poland.

¹ The district director erroneously stated that section 301(g) of the Immigration and Nationality Act, 8 U.S.C. § 1401(g) applies to the present matter. The error is harmless, as the district director cited to, and analyzed, the applicant's citizenship claim under the statutory provisions set forth in section 201(g) of the Nationality Act.

A *Certificate of Birth and Baptism* from the Holy Innocents Church in Chicago, Illinois, reflecting that the applicant's mother was baptized by the church on August 11, 1918.

The applicant additionally asserts that a copy of his mother's U.S. passport, issued in Poland on June 7, 1984, establishes that his mother resided in the United States as an adult.

The AAO finds that the *Certificate of Birth and Baptism* evidence contained in the record establishes by a preponderance of the evidence, that the applicant's mother resided in the United States between August 2, 1918 and August 11, 1918. The applicant has failed, however, to establish that his mother resided in the United States for the time period required in section 201(g) of the Nationality Act. The AAO finds that the U.S. passport contained in the record is not probative of the applicant's mother's residence in the United States prior to the applicant's birth. The passport was issued in Poland almost forty years after the applicant's birth, and it contains no information relating to the applicant's mother's previous U.S. residence. The AAO notes further that the applicant's Form N-600 statement regarding his mother's U.S. residence prior to his birth is unsubstantiated by the evidence in the record. Moreover, even if true, the statement indicates that the applicant's mother did not reside in the United States for five years after her sixteenth birthday.

The regulation provides at 8 C.F.R. § 341.2(c) that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. In the present matter, the applicant has failed to establish that his mother resided in the United States for ten years prior to the his birth, at least five years of which were after she turned sixteen, as required by section 201(g) of the Nationality Act. The appeal will therefore be dismissed and the application denied.

ORDER: The appeal is dismissed. The application is denied.²

² The present decision is without prejudice to the applicant's filing, if eligible, a Form N-400, Application for Naturalization pursuant to section 316 of the Act, 8 U.S.C. § 1427.