



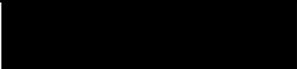
U.S. Citizenship
and Immigration
Services

PUBLIC COPY
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

E2



FILE:



OFFICE: HARLINGEN, TEXAS

Date: **MAY 04 2007**

IN RE:

APPLICANT:



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, Harlingen, Texas. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Mexico on February 4, 1945. The applicant's mother, [REDACTED], was born in the United States on December 8, 1921, and she is was U.S. citizen. The record does not reflect, and the applicant does not assert, that his father was a U.S. citizen. The applicant's parents were married at the time of his birth. The applicant seeks a certificate of citizenship based on the claim that he derived U.S. citizenship at birth through his mother.

The district director found that the applicant failed to establish that, prior to his birth, his mother accrued "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," as required by section 201(g) of the Nationality Act of 1940 (the Nationality Act.) The application was denied accordingly.

On appeal, the applicant indicates that he is submitting additional statements from his relatives to establish his mother's presence in the United States. *Statement from Applicant on Form I-290B*, dated April 12, 2006. He notes that certain school records that may have supported his mother's presence in the United States were destroyed in a fire. *Id.*

"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 February 4, 1945. Section 201(g) of the Nationality Act is therefore applicable to his derivative citizenship claim.

Section 201(g) of the Nationality Act states in pertinent part that:

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, the other being an alien.

In the present matter, the applicant must establish that his mother resided in the United States for ten years between December 8, 1921 and February 4, 1945, and that five of those years occurred after December 8, 1935, when the applicant's mother reached sixteen years of age.

Upon review, the applicant has not shown that his mother met the residency requirements of section 201(g) of the Nationality Act. Specifically, the applicant has not shown that his mother accrued the necessary five years of residence after her sixteenth birthday and before the applicant's birth.

It is noted that, on appeal, the applicant submitted two statements and an additional document that are written in a foreign language, yet he did not include an English translation. Because the applicant failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the applicant's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

The only new document submitted on appeal that references events that occurred between December 8, 1935 and February 4, 1945 consists of a statement from the applicant's mother's brother-in-law, [REDACTED]. [REDACTED] states that he knew the applicant's mother beginning in 1935, though he did not indicate where he was when he met her. *Statement from* [REDACTED] dated June 17, 2005. He asserts that the applicant's mother resided in the United States for her entire life and that he was her neighbor on two ranches, yet he does not provide dates for when he resided near the applicant's mother, or specific locations of the ranches. *Id.* [REDACTED] indicates that he married the applicant's mother's sister in 1944, but he does not establish that the applicant's mother was present in the United States at the time. *Id.* [REDACTED] further references events that occurred after the applicant was born, thus such comments are not probative of whether the applicant's mother was present in the United States prior to the applicant's birth. *Id.*

The applicant previously provided a statement from [REDACTED] in which [REDACTED] stated that he knew the applicant's mother since 1944, and that the applicant's mother "resided in the middle valley area most of her life." *Statement from* [REDACTED], dated November 23, 2004. [REDACTED]'s statement of November 23, 2004 is inconsistent with his statement of June 17, 2005, as he first claimed to have known the applicant's mother since 1944, and on appeal he claims to have known the applicant's mother since 1935. The applicant has not addressed or resolved this inconsistency. Accordingly, [REDACTED] statements lack sufficient consistency and detail to show that the applicant's mother was present in the United States for five years between December 8, 1935 and February 4, 1945.

Prior to the present appeal, the applicant submitted a statement from an individual named [REDACTED] who claimed to have known the applicant's mother "all her life." *Statement from* [REDACTED] dated November 23, 2004. [REDACTED] provided that the applicant's mother "resided in the middle valley area most of her life," yet this statement is not sufficiently detailed to support that the applicant's mother was present in the United States for five years between December 8, 1935 and February 4, 1945. *Id.*

The applicant previously submitted a statement from his mother's sister, [REDACTED] [REDACTED] referenced the fact that she and the applicant's mother resided on several ranches from 1920 to 1930, and that they attended school for five years in Brownsville, Texas. *Statement from* [REDACTED], dated June 17, 2005. However, [REDACTED] did not indicate the dates that she and the applicant's mother attended school for the five referenced years, and she did not describe any events that clearly reflect that the applicant's mother was present in the United States between December 8, 1935 and February 4, 1945. *Id.* Thus, [REDACTED] statement does not support that the applicant's mother was present in the United States for five years after she reached age sixteen and prior to the applicant's birth. *Id.*; section 201(g) of the Nationality Act.

The applicant has not submitted any other evidence that relates to his mother's presence after her sixteenth birthday and prior to the applicant's birth. Accordingly, the applicant has not established that his mother met the residency requirement of section 201(g) of the Nationality Act, and the present application may not be approved.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. The applicant has not met his burden in the present matter. The appeal will therefore be dismissed.¹

ORDER: The appeal is dismissed.

¹ It is noted that the present application fails for a lack of evidence. The record does not affirmatively indicate that the applicant is ineligible for a certificate of citizenship. The dismissal of this appeal is without prejudice to the applicant, and he may file a new Form N-600 with additional evidence if he feels he may meet the requirements of section 201(g) of the Nationality Act.