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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

E-2



FILE:



Office: SAN ANTONIO, TEXAS

Date:

NOV 27 2007

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under Sections 301(g) of the Immigration and Nationality Act; 8 U.S.C. § 1401(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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, San Antonio, 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 September 2, 1975 in Mexico. The applicant's mother, [REDACTED] was born on October 10, 1956 in Wisconsin. The applicant's father, [REDACTED] became a naturalized U.S. citizen in 2000, when the applicant was 25 years old. The applicant's parents were married in 1974. The applicant seeks a certificate of citizenship pursuant to section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g), based on the claim that she acquired U.S. citizenship at birth through her mother.

The district director denied the applicant's citizenship claim upon finding that the applicant had failed to establish eligibility under sections 301(g) of the Act, 8 U.S.C. § 1401(g) because her mother was not physically present in the United States for 5 years after her 14th birthday but before the applicant's birth. The application was accordingly denied.

On appeal, the applicant submits high school records and other evidence purporting to establish her mother's presence in the United States.

"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 1975.

Section 301(g) of the Act, 8 U.S.C. § 1401(g), as in effect in 1975, provided that

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 [shall be a citizen of the United States]

In order to acquire U.S. citizenship under this provision, the applicant must establish that her mother was present in the United States for a period of ten years prior to 1975, at least five of which were after she attained the age of 14 (in 1970). The applicant's mother was 18 when the applicant was born in 1975. She is therefore unable to establish the required physical presence, and thus statutorily ineligible for citizenship under 301(g) of the Act, 8 U.S.C. § 1401(g).

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; see also *United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967).

The applicant's mother was not physically present in the United States for the required five years after attaining the age of 14, but prior to the applicant's birth. Therefore, the AAO must conclude that the applicant is ineligible to acquire U.S. citizenship and her appeal will be dismissed.

ORDER: The appeal is dismissed.