

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Ea



FILE:



Office: HARLINGEN, TX

Date: OCT 02 2007

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship under 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 and 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 22, 1946. The applicant's parents, as indicated on his birth certificate, are [REDACTED]. The applicant seeks a certificate of citizenship under section 201(g) of the Nationality Act, 8 U.S.C. § 601(g), based on the claim that he acquired U.S. citizenship at birth through his mother.

The district director concluded that the applicant failed to establish that his mother was born in the United States. The district director noted that the record contained the applicant's mother's Mexican birth certificate. The district director further noted that the applicant's two previous applications for certificate of citizenship were denied. The district director therefore denied the instant application.¹

On appeal, the applicant resubmits the evidence he had previously provided and requests that his case be reconsidered. See Statement by the Applicant on Form I-290B, Notice of Appeal.

"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 the present matter was born in [REDACTED]. Section 201(g) of the Nationality Act, 8 U.S.C. § 601(g), is therefore applicable to his 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 was a U.S. citizen and that she resided in the U.S. for ten years between [REDACTED] (the applicant's date of birth), and that five of those years occurred after September 29, 1931, when the applicant's mother turned sixteen.

The record contains a copy of the applicant's mother's delayed birth certificate, issued by the State of Texas in 1969, but indicating "not stated" in the box pertaining to her place of birth. The applicant's mother also has a Mexican birth certificate, issued in 1970, verifying the registration of her birth in [REDACTED], Mexico. There are also two baptismal certificates, issued by the same church. A baptismal certificate issued in 2004 indicates that the applicant's mother was born in Grulla, Texas. A baptismal certificate issued in 1969 indicates that the place of birth is "not stated."

¹ The AAO notes that the instant application could have been rejected under 8 C.F.R. § 341.6. That regulation provides, in relevant part, that "[a]fter an application for Certificate of Citizenship has been denied and the appeal time has run, a second application submitted by the same individual shall be rejected and the applicant instructed to submit a motion for reopening or reconsideration in accordance with 8 C.F.R. § 103.5."

The AAO notes “[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v United States*, 449 U.S. 490, 506 (1981). The U.S. Supreme Court has further stated “it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect. This Court has often stated that doubts ‘should be resolved in favor of the United States and against the claimant.’” *Berenyi v. District Director*, 385 U.S. 630, 671 (1967) (citation omitted). Pursuant to 8 C.F.R. § 341.2(c), the applicant must 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).

AAO concludes that the applicant’s mother’s place of birth is, at best, unclear. As noted above, the applicant’s burden is to establish his mother’s place of birth by a preponderance of the evidence, and any doubts must be resolved against the applicant. The AAO finds that the applicant has therefore failed to establish that his mother was a United States citizen. The applicant in the present case has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.