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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: FT. SMITH, AK

Date: **SEP 18 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.

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 Field Office Director, Ft. Smith, Arkansas 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 December 26, 1946. The applicant's parents, as indicated on his birth certificate, are [REDACTED] and [REDACTED]. The applicant's parents were married on June 1, 1942. The applicant's mother is a native-born U.S. citizen, born on April 30, 1928 in Pueblo, Colorado. 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 U.S. citizen mother.

The field office director denied the application upon finding that the applicant had failed to provide his parents' marriage certificate, as was requested. The application was thus deemed abandoned and denied for lack of prosecution.

On appeal, the applicant submits a copy of his parents' marriage certificate, his mother's birth and baptismal certificates, as well as his birth and marriage certificates. The applicant does not submit any additional evidence or argument.

"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 wedlock in 1946. 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 resided in the U.S. for ten years between April 30, 1928 and December 26, 1946, and that five of those years occurred after April 30, 1944, when the applicant's mother turned 16 years of age.

The AAO notes that the record does not contain any evidence of the applicant's mother's U.S. residence prior to the applicant's birth. The AAO notes further that the applicant was born in 1946, when his mother was 18 years old. The applicant's mother therefore cannot establish that she resided in the United States for five years after she turned 16 prior to the applicant's birth.

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). 8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to 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). The applicant in the present case has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.