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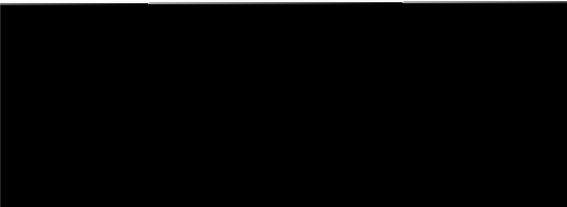
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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Services

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FILE:

Office: HOUSTON, TX

Date: JAN 03 2008

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship under Section 301(a)(7) of the former Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7).

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, Houston, 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 April 4, 1972 in Mexico. The applicant's father is [REDACTED] native-born U.S. citizen born on September 4, 1933. The applicant's mother, [REDACTED] is a citizen of Mexico. The applicant's parents were married on November 1, 1972. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father pursuant to section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7).

The district director rejected the application pursuant to 8 C.F.R. § 341.6. The cited regulation states that "[a]fter an application for a 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 . . . ." <sup>1</sup> This appeal followed.

On appeal, the applicant submits two notarized letters signed by family friends stating that the applicant's father was present in the United States from 1965 to 1978.

The AAO notes that "[t]he 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 (9<sup>th</sup> Cir. 2000) (citations omitted). The applicant was born on April 4, 1972. Section 301(a)(7) of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1401(a)(7), is therefore applicable to her citizenship claim.<sup>2</sup>

Section 301(a)(7) of the former Act states that the following shall be nationals and citizens of the United States at birth:

[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: *Provided*, That any periods of honorable service in the Armed Forces of the United States by such citizen parent may be included in computing the physical presence requirements of this paragraph.

Section 301(a)(7) of the former Act, 8 U.S.C. § 1401(a)(7), thus requires that the applicant establish that his father was physically present in the United States for at least 10 years prior to April 4, 1972, five of which after September 4, 1947 (when his father turned 14 years old).

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<sup>1</sup> The AAO notes that the record contains a Form N-600 filed in 1984 and marked "ineligible."

<sup>2</sup> The AAO notes that Section 301(a)(7) of the former Act was re-designated as section 301(g) by the Act of October 10, 1978, Pub. L. 95-432, 92 Stat. 1046. The requirements of section 301(a)(7) remained the same after the re-designation and until 1986.

The evidence in the record relating to the applicant's father's physical presence includes the applicant's father's Delayed Birth Certificate issued in 1969, the applicant's father's baptismal certificate, and the two notarized letters submitted on appeal.

The AAO notes that there is no documentary evidence corroborating the statements made in the notarized letters. The AAO further notes that these letters were signed by family friends, and do not provide sufficient detail to establish that the applicant's father was in the United States during the claimed period of time. The AAO finds that the applicant has failed to establish that his father was physically present in the United States for the required 10 years prior to 1972, five of which were after 1947.

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 AAO finds that the applicant has not met his burden of proof and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.