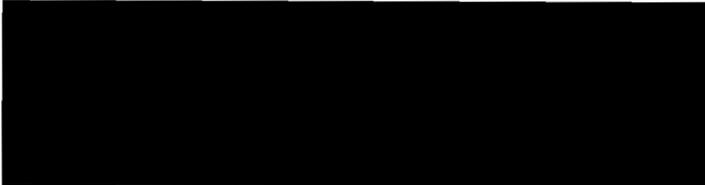




U.S. Citizenship
and Immigration
Services

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

E2



FILE:

Office: EL PASO, TX

Date: **AUG 29 2006**

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 District Director, El Paso, Texas and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant's mother, [REDACTED], was born in California on January 2, 1917 and that the applicant was born in Mexico on August 4, 1949.

"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). As the applicant was born in 1949, she must satisfy the requirements of section 201(g) of the Nationality Act of 1940 (1940 Act), the nationality law in place at the time of her birth.

Section 201(g) of the 1940 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.

Therefore, in the present matter, the applicant must establish that her mother resided in the United States for ten years between her birth on January 2, 1917 and the applicant's birth on August 4, 1949, and that five of those years occurred after January 2, 1933, when Ms. [REDACTED] would have turned sixteen.

In his denial, the district director noted that the applicant, at an October 21, 2005 interview, had indicated that her mother had left the United States as a child and had not returned until after her 1949 birth. While the director noted the applicant's statements regarding the forced nature of her mother's departure from the United States, he found the record to provide no evidence to support the applicant's claims in this regard. Accordingly, he determined that the petitioner had failed to establish that her mother's U.S. residence satisfied the requirements of section 201(g) of the Act.

In her appeal, filed on December 29, 2005, the applicant requests additional time in which to gather additional evidence to prove that her mother was unjustly removed from the United States. However, more than seven months later, the AAO finds the record to contain no documentation to support the applicant's claims regarding her mother's coerced repatriation to Mexico. Therefore, the evidence of record is that previously considered by the district director, which, as he determined, does not demonstrate that between her 16th birthday and the applicant's birth, the applicant's mother lived in the United States for at least five years.

The regulation at 8 C.F.R. 341.2(c) states that the burden of proof shall be on the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met her burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.