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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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FILE: [Redacted] Office: HARLINGEN, TX Date: **OCT 14 2010**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. §1431.

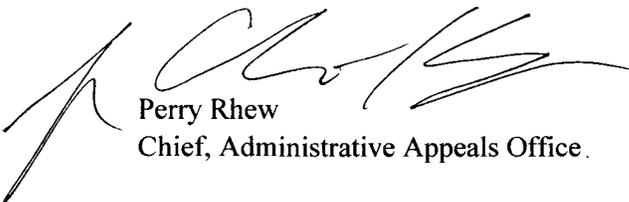
ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.


Perry Rhew
Chief, Administrative Appeals Office.

DISCUSSION: The application was denied by the Field Office Director, Harlingen, Texas, and came before the Administrative Appeals Office (AAO) on appeal. The matter was remanded to the director. The director issued his decision on June 23, 2010 and certified it to the AAO for review. The director's decision will be affirmed. The appeal will be dismissed, and the application will be denied.

The record reflects that the applicant was born on October 19, 1987 in Mexico. The applicant's parents are [REDACTED]. The applicant's parents were married in 1992. The applicant claims that his father was born in the United States in 1966. The applicant adjusted his status to that of lawful permanent resident of the United States on March 28, 2005, when he was 17 years old. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship through his father pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, as amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000).

The field office director concluded that the applicant did not acquire U.S. citizenship upon finding that his father was not born in the United States as claimed. The director cited a Mexican birth registration indicating that the applicant's father was born in [REDACTED] Tamaulipas on January 17, 1966 and that his birth was registered in Mexico on February 24, 1966, well before his father's birth was purportedly registered in the United States in 1968. The application was accordingly denied. On appeal, the applicant, through counsel, claimed that his father was indeed born in the United States. The AAO remanded the matter to the director to request that the U.S. Department of State review the evidence and decide whether to revoke the applicant's father's passport. The State Department revoked the applicant's father's passport on March 19, 2010. The director subsequently reaffirmed his denial of the applicant's citizenship claim and certified his decision to the AAO for review.

As noted in the AAO's October 20, 2009 decision, the applicant must first establish that his father is a U.S. citizen in order to acquire U.S. citizenship pursuant to section 320 of the Act. The applicant's father's U.S. passport has been revoked. The record contains the affidavits submitted by the applicant as well as his father's baptismal certificate, and the delayed Texas birth certificate purportedly of his father. However, the timely birth registration of the applicant's father in Mexico casts doubt on the delayed birth certificate obtained in Texas as well as the statements from the applicant's grandmother and godfather.

The Board of Immigration Appeals held in *Matter of Tijerina-Villarreal*, 13 I&N Dec. 327, 331 (BIA 1969), that:

[W]here a claim of derivative citizenship has reasonable support, it cannot be rejected arbitrarily. However, when good reasons appear for rejecting such a claim such as the interest of witnesses and important discrepancies, then the

special inquiry officer need not accept the evidence proffered by the claimant.
(Citations omitted.)

The revocation of the applicant's father's U.S. passport, as well as the existence of a contemporaneous Mexican birth certificate, raise a crucial discrepancy and provide significant reason to reject the statements of interested family members, and prevent the applicant from establishing that his father was born in the United States.

The regulation at 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. The application is denied.

ORDER: The director's decision is affirmed. The appeal is dismissed. The application is denied.