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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:



Office: BOSTON, MA

Date:

**SEP 08 2010**

IN RE:

Applicant:



APPLICATION: Application for Certificate of Citizenship under Section 201 of the Nationality Act of 1940; 8 U.S.C. § 601

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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, with a fee of \$585. 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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Boston, Massachusetts, 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 January 4, 1943 in Canada. The applicant's father, [REDACTED] was born on February 4, 1910 in Maine. The applicant's mother is not a U.S. citizen. The applicant's parents were married in Canada in 1935. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father.

The field office director denied the applicant's claim noting several inconsistencies in the names and dates found in the documents submitted. The director further found that the applicant failed to establish that his father had the required residence in the United States to transmit U.S. citizenship to the applicant at birth. The application was accordingly denied.

On appeal, the applicant maintains that typographical errors account for the inconsistencies in the names and dates in the document in the record. See Applicant's Appeal Statement. The applicant further states that his father had the required ten years of residence in the United States prior to his birth. *Id.*

"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." See *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1028 n.3 (9<sup>th</sup> Cir. 2001). The applicant was born in 1943. Section 201 of the Nationality Act of 1940 (the Nationality Act), 8 U.S.C. § 601, is therefore applicable to this case.

Section 201(g) of the Nationality Act states, in pertinent part, that the following shall be nationals and citizens of the United States at birth:

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: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reached the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

The record does not contain evidence of the applicant's father's residence in the United States other than his birth and baptismal certificates (indicating that he was born and baptized in 1910 in Maine)

and his social security earnings statement. The applicant's father's marriage certificate indicates that he was married in Canada in 1935. The social security earnings statement relating to the applicant's father lists income for the years 1938 to 1942. The applicant was born in Canada in January 1943. This evidence fails to establish that the applicant's father resided in the United States for at least 10 years prior to 1943 as is required for the applicant to acquire citizenship through him under section 201(g) of the Nationality Act.

"There 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 applicant bears the burden of proof in these proceedings to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Act, 8 U.S.C. § 1452; 8 CFR § 341.2(c). The AAO finds that the applicant has not met his burden of proof, and his appeal will be dismissed.

**ORDER:** The appeal is dismissed.