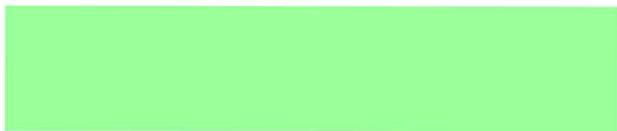




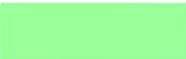
U.S. Citizenship
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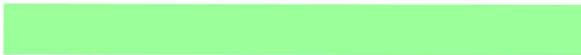


Date: **OCT 27 2014**

Office: HOUSTON, TX

FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Certificate of Citizenship under former Section 301 of the Immigration and Nationality Act; 8 U.S.C. § 1401 (1962).

ON BEHALF OF APPLICANT:

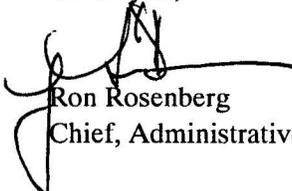
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Houston, Texas Field Office (the director) denied the Application for Certificate of Citizenship (Form N-600) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Pertinent Facts and Procedural History

The applicant was born in Mexico on October [REDACTED]. His father, [REDACTED] is not a U.S. citizen. His mother, [REDACTED] was born in Mexico on April [REDACTED] but acquired U.S. citizenship at birth through her U.S. citizen parent. The applicant's parents were married in [REDACTED]. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his mother.

The director denied the application upon finding that the applicant could not establish that his mother was physically present in the United States for ten years prior to his birth as required by former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7)(1962). See *Director's Decision*, dated February 23, 2014. The director noted that the applicant was not a lawful permanent resident and therefore also not eligible for U.S. citizenship under section 320 of the Act, 8 U.S.C. § 1431.¹ *Id.*

On appeal, the applicant indicates that a brief or additional evidence would be submitted within thirty days of the appeal but, to date, none has been received in our office. The appeal is accompanied by a notarized statement, signed by [REDACTED] stating that the applicant's mother visited family in [REDACTED] New Mexico starting in 1951.

Applicable Law

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Because the applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. See *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008).

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 (9th Cir. 2001) (internal citation omitted). The applicant in the present matter was born in 1962. Former section 301(a)(7) of the Act, 8 U.S.C. § 1401(a)(7), is applicable to his case and stated, in pertinent part, that the following shall be nationals and citizens of the United States at birth:

¹ Section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), is only applicable to individuals who were under the age of 18 on its effective date, February 27, 2001. The CCA is inapplicable to this case because the applicant was over the age of 18 on its effective date.

[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.

Analysis

At issue in this case is whether the applicant can establish that his mother was physically present in the United States for ten years prior to [REDACTED] five years of which were after [REDACTED] (the applicant's mother's 14th birthday).

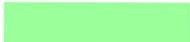
Depending on the specificity, detail, and credibility of a letter or statement, U.S. Citizenship and Immigration Services (USCIS) may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

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 only evidence in the record pertaining to the applicant's mother's physical presence in the United States is the notarized statement of [REDACTED] Mr. [REDACTED] indicates that he met the applicant's mother in [REDACTED] and attested to her visits to the United States to visit family starting in [REDACTED]. The statement does not contain information regarding the amount of time spent by the applicant's mother in the United States during these visits. Thus, the statement does not establish that the applicant's mother was physically present in the United States for a period or periods totaling not less than ten years prior to the applicant's birth in [REDACTED].

The applicant has not established, by a preponderance of the evidence, that his mother was physically present in the United States for a period or periods totaling not less than ten years prior to [REDACTED] at least five years of which were after the applicant's mother turned 14 in [REDACTED].



Conclusion

It is the applicant's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 341.2(c). Here, that burden has not been met.

ORDER: The appeal is dismissed.