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U.S. Citizenship
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APPLICATION: Application for Certificate of Citizenship pursuant to 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.

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Mexico on August 28, 1963. The applicant's father, [REDACTED] was born in Los Angeles, California on May 4, 1928. The applicant's mother was born in Mexico and she is not a U.S. citizen. The applicant's parents married in Texas on August 28, 1989. The applicant seeks a Certificate of Citizenship based on the claim that she acquired U.S. citizenship at birth through her father pursuant to section 301(a)(7) of the former Immigration and Nationality Act (the former Act); 8 U.S.C. § 1401(a)(7) (now known as section 301(g) of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1401(g)).

The district director determined the applicant failed to establish by a preponderance of the evidence that her mother was physically present in the United States for a total of ten years prior to the applicant's birth, at least five years of which occurred after her mother reached the age of fourteen, as required by section 301(a)(7) of the former Act. The application was denied accordingly.

On appeal, the applicant highlights that her siblings were recognized as U.S. citizens due to sharing the same relationship to the applicant's father as the applicant. *Statement from the Applicant on Form I-290B*, received February 18, 2005. The applicant submits evidence of her father's presence in the United States.

The record contains documentation to show that immigration court proceedings against the applicant were terminated without prejudice in order for her to pursue the present Form N-600, Application for Certificate of Citizenship; naturalization certificates for two individuals that the applicant claims are her siblings; a copy of the applicant's birth certificate; a copy of the marriage certificate of the applicant's parents; two statements from the applicant's father's brother; a letter from the applicant's father's former employer; a record of the applicant's father's taxable earnings from 1937 to 1995 from the U.S. Social Security Administration; documentation of the applicant's father's utility services in the United States, and; a brief from Frank W. Border, Director of the Mexican Missions Ministry, Inc. The entire record was considered in rendering this decision.

"[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 (9th Cir. 2000)(Citations omitted). The applicant was born in Mexico in 1963. Section 301(a)(7) of the former Act therefore applies to her citizenship claim.

Section 301(a)(7) of the former Act states in pertinent part 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 . . . 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 . . . for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years.

In the present matter, the applicant must establish that her father was physically present in the United States for ten or more years between May 4, 1928 and August 28, 1963, and that at least five of those years occurred after May 4, 1942, when the applicant's father reached age 14.

Upon review, the applicant has not submitted sufficient evidence to show that her father was physically present in the United States for ten years prior to her birth. The applicant provides a record of her father's taxable income for the years 1937 through 1995. While this document encompasses approximately 26 years prior to the applicant's birth, it does not establish that her father was in the United States for the duration of each year covered. For example, while the record shows that the applicant's father earned \$3,953.96 in 1954 and \$3,428.12 in 1955, it represents that he earned only \$433.98 in 1951, \$67.03 in 1952, \$20.40 in 1953, \$328.73 in 1956, \$110.37 in 1958, \$42.89 in 1959, \$4.20 in 1960, \$27.50 in 1961, \$139.95, and no income for 1957 and 1962. The record provides that the applicant's father earned a total of \$2,658.06 between 1937 and 1950, an average of \$206.54 per year.

The applicant's father's brother ("applicant's uncle") provided a statement in which he indicated that he and the applicant's father grew up together, though he does not state where. *Statement from* [REDACTED] dated June 26, 2003. The applicant's uncle stated that the applicant's father worked in Los Angeles from 1942 until 1951, yet the applicant's father then relocated to Mexico for two years. *Id.* He indicated that the applicant's father returned to the United States where he worked from 1954 until "some time in the 1980s." *Id.*

In comparing the statement from the applicant's uncle with the record of the applicant's father's taxable income, the AAO is unable to conclude that the applicant's father resided in the United States for each of the years covered by the taxable income statement. As detailed above, the taxable income statement reports that the applicant's father earned only \$433.98 in 1951, \$67.03 in 1952, and \$20.40 in 1953, the years during which the applicant's uncle indicated that the applicant's father was residing in Mexico. As the taxable income statement also reports that the applicant's father earned \$328.73 in 1956, \$110.37 in 1958, \$42.89 in 1959, \$4.20 in 1960, \$27.50 in 1961, \$139.95, and no income for 1957 and 1962, the record suggests that he was also residing outside the United States during those years. Likewise, as the taxable income statement reports that the applicant's father earned an average of \$206.54 per year between 1937 and 1950, the AAO is unable to determine that he was residing in the United States throughout each of those years. The applicant has not submitted a statement from her father to clarify these documents, or a clear account of the time he spent in and out of the United States during his life leading up to the date of the applicant's birth.

It is noted that the statement from the applicant's uncle is very brief, and it lacks sufficient detail to establish that the applicant's father was present in the United States for a total of ten years prior to the applicant's birth.

The applicant submits a one-sentence letter from her father's prior employer, Ramon's Transfer Co., dated February 8, 2005. In the letter, the General Manager states that the applicant's father was employed with the company from 1950 to 1963. However, this letter does not report the number of hours the applicant's father worked, what were his tasks, whether he was employed in the United States, and if so, whether he worked throughout each year covered. As the applicant's uncle stated that the applicant's father resided in Mexico for two years beginning in 1951, it is evident that the applicant's father was not working full-time in the United States for Ramon's Transfer Co. throughout the period from 1950 to 1963. Thus, the letter from Ramon's Transfer Co. is not sufficient evidence to show that the applicant's father resided in the United States during the covered period.

It is further noted that the applicant provided evidence of her father's residence in the United States after her birth, including tax and utility records, and his marriage certificate. However, as discussed above, the

applicant must show that her father was physically present in the U.S. for a total of ten years prior to her birth, as required by section 301(a)(7) of the former Act. Therefore, such documentation is not probative of the applicant's eligibility for a certificate of citizenship.

The applicant commented that her siblings were recognized as U.S. citizens due to sharing the same relationship to the applicant's father. However, the applicant has not indicated the particular circumstances of her siblings, nor has she submitted copies of their applications such that the AAO can conclude that they were afforded citizenship through their relationship with the applicant's father. The present proceeding is a separate matter from those of the applicant's siblings. Documentation or reasoning in her sibling's cases will not be considered by the AAO unless they are properly presented by the applicant. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Pursuant to the regulation at 8 C.F.R. § 341.2(c), the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. The applicant must submit sufficient evidence into the current record. The applicant has not met her burden.

The AAO notes that the record does not affirmatively indicate that the applicant is ineligible for a certificate of citizenship. The application fails for a lack of sufficient documentation. Though the present application may not be approved, the applicant is free to file a new application with additional evidence to clearly show that her father was physically present in the U.S. for a total of ten years prior to her birth, at least five years of which occurred after her father reached the age of fourteen, as required by section 301(a)(7) of the former Act. However, based on the foregoing, the present appeal must be dismissed.

ORDER: The appeal is dismissed.