



U.S. Citizenship
and Immigration
Services

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FILE:

Office: HARLINGEN, TX

Date:

DEC 14 2006

IN RE:

Applicant:

APPLICATION: Application for Certificate of Citizenship pursuant to Section 301(a)(7) of the Immigration and Nationality Act of 1952, 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Harlingen, Texas 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 June 3, 1981 in Mexico. The applicant's mother, [REDACTED] was born in Mexico on June 2, 1963 and acquired U.S. citizenship at birth. The applicant's father, [REDACTED] was, at the time of the applicant's birth, a citizen of Mexico and the Form N-600, Application for Certificate of Citizenship, indicates that he retains that citizenship. The applicant's parents married on March 20, 1979. The applicant seeks a certificate of citizenship based on the claim that he acquired U.S. citizenship at birth through his mother.

"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). The applicant in this case was born in Mexico on February 27, 1975. Therefore, he must establish his claim to U.S. citizenship under section 301(a)(7) of the 1952 Immigration and Nationality Act (1952 Act), the applicable immigration statute in effect in 1975.

Section 301(a)(7) of the 1952 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.

The record contains a copy of [REDACTED] certificate of citizenship issued on December 30, 2003, which establishes that she was born a citizen of the United States; a copy of the applicant's birth certificate proving that he was born in Mexico; and a copy of the marriage certificate for the applicant's parents that establishes his father as a citizen of Mexico. Therefore, the applicant has demonstrated that he was born outside the geographical limits of the United States to parents, one of whom is a U.S. citizen and the other a national of a third country. The only issue that remains before the AAO is whether the applicant's mother, prior to his birth, was physically present in the United States for a period of at least ten years, five of which followed her 14th birthday.

To establish [REDACTED] presence in the United States for the requisite period prior to his birth, the applicant has submitted copies of:

- An affidavit signed by [REDACTED] who states that she met Ms. [REDACTED] in 1970 when [REDACTED] her father were living in Mission, Texas. She attests that she has known the family since that time and has seen them on a daily basis.
- A voter registration card issued to [REDACTED] valid from October 9, 2004 through December 31, 2005.
- A 1969 tax return filed by [REDACTED] father, listing his address as Edinburg, Texas and identifying [REDACTED] living with him in the United States.

- A 1968 voter list for Precinct 14 in Edinburg, Texas that includes [REDACTED] father.
- Undated photographs that the applicant indicates include his grandfather.
- A card (No. [REDACTED]) issued to [REDACTED] father, entitled "FOR THE USE OF RESIDENT CITIZEN IN THE UNITED STATES."
- A Texas Department of Public Safety Identification Card issued to [REDACTED] that expires on June 2, 2010 and her social security card.
- Birth certificates [REDACTED] mother and father, and the death certificate for [REDACTED] father.
- Four field labor records and a daily time card for LCC & Co., Inc., all signed by Ms. [REDACTED]. Of the four field labor records, three have 1980 dates and the date on the fourth is not legible. The daily time card has no legible date.

The AAO has reviewed the above documentation and finds the applicant to have provided insufficient proof that his mother lived in the United States for at least ten years prior to his birth. Only the tax return filed by the applicant's grandfather, which lists [REDACTED] as living in Edinburg, Texas in 1969, documents her presence in the United States prior to the applicant's birth. The 2004-2005 voter registration card and Texas Department of Public Safety Identification Card issued to [REDACTED] as well as the 1980 employment records post date the applicant's birth and, therefore, do not satisfy the requirements of section 301(a)(7) of the Act. The submitted photographs also fail to establish [REDACTED] or her father's presence in the United States, as they are not identified as to date or location. The 1968 voter registration list that includes [REDACTED] father is not proof of her presence in the United States, only that her father was registered to vote in Precinct 14 in Edinburg, Texas that year. The undated card that identifies [REDACTED] father as a resident citizen of the United States and his 1929 birth certificate are also unrelated to [REDACTED] presence in the United States prior to the applicant's birth. The affidavit sworn by [REDACTED] who lives in Brownsville, Texas states that she met [REDACTED] in Mission, Texas in 1970 and has seen her on a daily basis since that time. However, in the absence of supporting documentation, a single affidavit is not sufficient proof of [REDACTED] physical presence in the United States. Moreover, the affidavit indicates that [REDACTED] in 1970 when [REDACTED] was living in Mission, Texas. The record indicates that the family, at least in 1969, was living in Edinburg, Texas.

For the reasons previously discussed, the record does not establish that the applicant's U.S. citizen mother, prior to his birth, was physically present in the United States for at least ten years, five of which followed her 14th birthday, as required by section 301(a)(7) of the 1952 Act. Accordingly, the appeal will be dismissed.

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 his burden.

ORDER: The appeal is dismissed.