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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] Office: HARLINGEN, TX Date: **NOV 21 2006**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Sections 309 and 301 of the Immigration and Nationality Act; as amended, U.S.C. §§ 1409 and 1401

ON BEHALF OF APPLICANT:  
[Redacted]

**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 summarily dismissed.

The record indicates that the applicant was born on August 28 1969 in Mexico. The applicant's natural father, [REDACTED] was born on January 12, 1925 in New Braunfels, Texas. The applicant's mother [REDACTED] is, based on the statements of the applicant, a citizen of Mexico. The applicant's parents were married on August 22, 1981. The applicant seeks a certificate of citizenship pursuant to sections 309 and 301 of the Immigration and Nationality Act (the Act), as amended, 8 U.S.C. §§ 1409 and 1401, based on the claim that he acquired U.S. citizenship at birth through his natural father, [REDACTED]

Based on the evidence of record, the district director determined that the applicant had failed to prove that [REDACTED] met the physical presence requirements of section 301(g) of the Act. Accordingly, he denied the application.

Counsel for the applicant submitted a timely-filed Form I-290B, Notice of Appeal, on January 24, 2006. The statement on the Form I-290B reads:

On June 2001 and August 2002, [REDACTED] sisters [REDACTED] . . . and [REDACTED] . . . were granted citizenship. Both were granted citizenship based on evidence that their U.S. citizen father was born in the U.S. and was physically present 10 yrs., 5 after the age of 14. They submitted social security records and sworn affidavits of four different individuals who knew their father. In the denial letter [REDACTED] they indicated that they based the decision on the evidence found in his older sister's file and mention their father's social security records; however, they failed to mention that there were four sworn affidavits that were considered when his sister[s] were granted citizenship. We request that these affidavits that were considered in 2001 and 2002 be considered when reviewing [REDACTED] case.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

The statement on the Form I-290B is insufficient as a basis for the appeal. Counsel fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. Instead, counsel requests that evidence not in the record, but submitted in relation to the Form N-600s, Applications for Certificate of Citizenship, filed by the applicant's sisters, be considered in the present case. However, each application or petition filing is a separate proceeding with a separate record, and Citizenship and Immigration Services is limited to the information contained in that record in reaching its decision. 8 C.F.R. §§ 103.2(b)(16)(ii) and 103.8(d). As counsel fails to submit the referenced information or to offer argument on appeal sufficient to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The AAO notes that counsel, on appeal, asserts that the district director based his decision on evidence found in the file of the applicant's older sister. Counsel, however, has misread the director's language, which states that "[t]he Service reviewed your sibling's [sic] administrative files and determined that their applications

were erroneously approved under section 301 of the Act. In the present matter, you have failed to adequately establish – in any event – that your father had the required physical presence in the United States and hence that you acquired United States citizenship through your father and thus are eligible to receive a certificate of citizenship.” While the director indicated that he had reviewed the Form N-600 applications filed by the applicant’s sisters, he specifically distinguished “the present matter,” i.e., the present application, from his findings in the cases related to the applicant’s siblings. The director’s decision clearly bases his denial of the instant Form N-600 on the applicant’s failure to establish his father’s physical presence in the United States for the requisite period.

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 failed to meet his burden in this proceeding. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.