



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: HARLINGEN, TX Date: JAN 09 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to Section 301(h) of the Immigration and Nationality Act, as amended, 8 U.S.C. § 301(h).

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 sustained.

The record reflects that the applicant's mother, [REDACTED] was born in Texas on April 1, 1899 and that the applicant was born in Mexico in February 1921. The applicant's father, [REDACTED] based on the record, appears to be a citizen of Mexico, although his nationality is not specifically identified in the record.¹ Neither does the record indicate a date of marriage for the applicant's parents, although the applicant's July 8, 1921 baptismal certificate lists his birth as legitimate. The applicant seeks a certificate of citizenship based on his birth to a U.S. citizen mother.

The applicant was born in 1921 and will, therefore, be considered under section 301(h) of the Act, as established by the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, Title I, 108 Stat. 4305 (October 24, 1994). Section 301(h) of the Act confers citizenship at birth to:

[A] person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

Accordingly, to establish that he is eligible for a certificate of citizenship, the applicant must establish that his mother was a U.S. citizen and that she resided in the United States prior to his birth.

The district director determined that the evidence of record did not establish that the applicant's mother was a U.S. citizen or that she had been physically present in the United States or one of its outlying possessions for a continuous period of one year. The director specifically noted inconsistencies in the documentation submitted to establish the birth place of the applicant's mother and his date of birth. Accordingly, he denied the Form N-600, Application for Certificate of Citizenship.

On appeal, counsel contends that the record establishes the birth place of the applicant's mother as Brownsville, Texas and his date of birth as February 6, 1921. He further notes that immigration law prior to May 24, 1934 imposed no residency requirement.

To establish his claim to U.S. citizenship, the applicant has submitted the following evidence:

- A birth certificate issued on July 14, 2005, which indicates that the applicant was born to [REDACTED] and [REDACTED] on February 9, 1921 in Mexico and that this birth was registered on May 11, 1948 in Valle Hermoso, Tamaulipas, Mexico.
- A baptismal certificate issued on January 24, 1996, which states that the records of the Diocese of Matamoros indicate that the applicant was born on February 6, 1921 and baptized on July 8, 1921.
- A Mexican identity card issued to the applicant listing his date of birth as February 6, 1921.

¹ The citizenship of the applicant's father does not affect the requirements for acquiring U.S. citizenship in this case. As noted above, the applicant is eligible to acquire U.S. citizenship through his U.S. citizen mother if the record establishes that she was present in the United States prior to his birth.

- A birth certificate issued on October 18, 1996 to Ms. [REDACTED] stating her date of birth as April 1, 1899 and her place of birth as Victoria, Texas. The birth certificate identifies the following as supporting documents: a Department of State identification card issued on May 22, 1959 and an application for a social security account indicating that Ms. [REDACTED] was born in Brownsville, Texas on April 1, 1899.
- A baptismal certificate for Ms. [REDACTED] issued by the Immaculate Conception Cathedral in Brownsville, Texas on December 22, 2004. The certificate indicates that the church's baptismal register shows Ms. [REDACTED] to have been born on April 1, 1899 and that she was baptized on October 7, 1899. The certificate does not note Ms. [REDACTED] place of birth.
- "A CARD OF IDENTIFICATION FOR USE ON THE MEXICAN BORDER BY A CITIZEN OF THE UNITED STATES" (No. [REDACTED]), issued to the applicant's mother [REDACTED] for use between May 22, 1953 and May 21, 1955. The card indicates Ms. [REDACTED] date of birth as April 1, 1899. No place of birth is listed

As noted by the director in his denial, the evidence submitted by the applicant indicates two differing dates for his birth – February 9, 1921, as stated in his delayed certificate of birth, and February 6, 1921, as indicated in his baptismal certificate and his Mexican identification card. While the AAO notes this discrepancy, it does not find it to undermine the applicant's claim to U.S. citizenship. The only record that is contemporaneous to the birth of the applicant is the registry consulted by the Diocese of Matamoros in issuing the applicant's 1996 baptismal certificate. The delayed birth certificate issued in 2005 relies on the registration of the applicant's birth that took place in 1948. Accordingly, the AAO finds the baptismal certificate to be the more reliable record of the applicant's birth date, establishing it as February 6, 1921. Moreover, although the applicant's birth certificate indicates a date that is different than that on his baptismal certificate, it, nevertheless, places the applicant's birth in February 1921.

The evidence of record also offers two different locations for the birth of the applicant's mother. Ms. [REDACTED] delayed birth certificate states that she was born in Victoria, Texas, while it also indicates that supporting documentation, an application for a social security card, reported her place of birth as Brownsville, Texas. On appeal, counsel contends that Ms. [REDACTED] birthplace was Brownsville, Texas, as established by the social security application just noted and the identification card issued by the Department of State. While the AAO does not find the submitted copy of Ms. [REDACTED] border crossing card to indicate her place of birth, it notes that both her birth certificate and the referenced social security application, although offering differing locations as to the city of her birth, are in agreement that she was born in Texas on April 1, 1899. Therefore, the record establishes that the applicant's mother was born a U.S. citizen.

To acquire citizenship under section 301(h) of the Act, applicants must establish that their U.S. citizen mothers resided in the United States prior to their births. The Form N-600 indicates that the applicant's mother lived in the United States from her birth until 1918, but has submitted no documentary evidence to support this claim. However, section 301(h) of the Act does not stipulate the length of the residence required of the U.S. citizen mother. As a result, the AAO finds Ms. [REDACTED] birth certificate establishing her birth in Texas on April 1, 1899 and her baptismal certificate, which indicates she was baptized in Brownsville, Texas on October 7, 1899 six months later to satisfy the statutory requirement for U.S. residence under 301(h) of the Act. The applicant has established his eligibility for a certificate of citizenship. The appeal will be sustained.

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 met his burden.

ORDER: The appeal is sustained.