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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



EZ

FILE:



Office: SAN ANTONIO, TX

Date:

NOV 27 2007

IN RE:

Applicant:



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

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 cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Interim District Director, San Antonio, Texas and 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 July 16, 1986. The applicant's parents, as indicated on his birth certificate, are [REDACTED]. The applicant's parents were married in 1983. The applicant seeks a certificate of citizenship under section 301(g) of the Immigration and Nationality Act, 8 U.S.C. § 1401(g), based on the claim that he acquired U.S. citizenship at birth through his mother.

The district director concluded that the applicant failed to establish that his mother was born in the United States. The district director noted that the record contained the applicant's mother's Mexican birth certificate. The district director therefore denied the instant application.

On appeal, the applicant maintains that his mother was born in the United States but that his grandfather had mother's Mexican documents "made" so he could raise her in Mexico. See Statement by the Applicant on Form I-290B, Notice of Appeal.

"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 the present matter was born in 1986. Section 301(g) of the Immigration and Nationality Act, 8 U.S.C. § 1401(g), is therefore applicable to his citizenship claim.

Section 301(g) of the Act, 8 U.S.C. § 1401(g), as in effect before the amendments of November 14, 1986, provided 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 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.

In the present matter, the applicant must establish that his mother was a U.S. citizen and that she was present in the U.S. for ten years between December 19, 1963 (her date of birth) and July 16, 1986 (the applicant's date of birth), and that five of those years occurred after December 19, 1977, when the applicant's mother turned fourteen.

The record contains a copy of the applicant's mother's delayed birth certificate, issued by the State of Texas in 2002, as well as a baptismal certificate and a Mexican birth certificate registered in 1964. The record suggests that the applicant's mother was physically present in the United States from 1963 to 1965, and from 1998 to the present. The AAO concludes that the applicant's mother's place of birth is, at best, unclear.

The AAO notes “[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v United States*, 449 U.S. 490, 506 (1981). The U.S. Supreme Court has further stated “it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect. This Court has often stated that doubts ‘should be resolved in favor of the United States and against the claimant.’” *Berenyi v. District Director*, 385 U.S. 630, 671 (1967). Pursuant to 8 C.F.R. § 341.2(c), the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is “probably true” or “more likely than not.” *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989).

The AAO finds that the applicant has not established that his mother was born in the United States or that she resided in the United States for ten years prior to his birth. As noted above, the applicant’s burden is to establish his mother’s place of birth by a preponderance of the evidence, and any doubts must be resolved against the applicant. The applicant in the present case has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.