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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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**PUBLIC COPY**

[REDACTED]

FILE:

Office: BUFFALO, NY

Date: JUL 30 2008

IN RE:

Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to former Section 301(a)(7) of the 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 Field Office Director, Buffalo, New York 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 March 8, 1952 in the Bahamas. The applicant's mother, [REDACTED] was born on January 10, 1921 in Stuart, Florida. The applicant's father, [REDACTED] was, at the time of his birth, a citizen of the Bahamas and the record does not indicate that he has acquired another nationality. The applicant's parents were married on July 1, 1941. The applicant seeks a certificate of citizenship based on the claim that he acquired U.S. citizenship at birth through his mother.

In his decision, the field office director determined that the applicant had failed to establish that he was eligible for a certificate of citizenship under either section 301 or section 320 of the Immigration and Nationality Act of 1952 (the Act), as it existed prior to February 27, 2001. However, the AAO finds the field office director to have erred in applying the provisions of sections 301 or 320 of the Act to the applicant's claim to citizenship as he was born prior to December 23, 1952 and, accordingly, is not subject to the provisions of the 1952 Act.

"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 (9<sup>th</sup> Cir., 2000) (citations omitted). The applicant in this case was born in the Bahamas March 8, 1952. Therefore, he must establish his claim to U.S. citizenship under section 201(g) of the Nationality Act of 1940, the applicable immigration statute in effect at the time of his birth.

Section 201(g) of the 1940 Act states in pertinent part that:

A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien.

Therefore, in the present matter, the applicant must establish that his mother resided in the United States for ten years between her birth on January 10, 1921 and the applicant's birth on March 8, 1952, and that five of those years occurred after January 10, 1937, when [REDACTED] would have celebrated her 16<sup>th</sup> birthday.

At the time he filed the Form N-600, Application for Certificate of Citizenship, the applicant submitted a statement in which he claims that after finishing school in the Bahamas, his mother returned to Miami, Florida where she lived with a family member until she met his father in 1940. After his parents' marriage, which the applicant states took place one year later, the applicant contends that his mother continued to live in Miami until she became pregnant with his older brother and moved to the Bahamas. The applicant asserts that [REDACTED] returned to the United States in 1950 to seek employment to better support her family.

This information conflicts with that provided by the applicant in connection with a Form N-600 filed in 2006 in which he indicated that his mother had resided in the United States from 1955 until her death in 1987. In an affidavit submitted in support of a Form N-600 filed by the applicant in 1982, the applicant's brother, [REDACTED], attests that their mother was taken to the Bahamas as a young child by her parents and did not return to the United States until 1955. A history of [REDACTED] life, written for her funeral in 1987,

states that she moved to the Bahamas when she was five years old and returned to the United States in the 1950s. Other than [REDACTED] birth certificate, which establishes that she was born in Stuart, Florida in 1921, the record contains no other evidence to demonstrate her presence in the United States.

In the absence of any type of documentary evidence to support the claims made by the applicant and his brother regarding their mother's presence in the United States, the AAO finds these claims insufficient proof of the time that [REDACTED] lived in the United States. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See 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)). Moreover, even if the AAO were to accept that [REDACTED] had lived in the United States for five years following her birth and then returned to live permanently in the United States in 1955, the applicant would be able to show only five years of physical presence between his mother's January 10, 1921 birth and his birth on March 8, 1952, all of which occurred while [REDACTED] was a small child.

For the reasons just discussed, the AAO does not find the record to establish that, prior to the applicant's birth, his mother was physically present in the United States for a total of ten years, five of which followed her 16<sup>th</sup> birthday.

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 and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.