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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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JUL 29 2009

FILE: Office: EL PASO, TX Date:

IN RE:



APPLICATION: Application for Certificate of Citizenship under Section 301(a)(7) of the former Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7).

ON BEHALF OF APPLICANT:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The record reflects that the applicant was born on September 2, 1998 in Mexico. The applicant's parents, [REDACTED] and [REDACTED] were married in Texas in 1996.¹ The applicant's mother is a native born U.S. citizen, born on October 17, 1958 in El Paso, Texas. The applicant's father is not a U.S. citizen. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his mother pursuant to section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The field office director concluded that the applicant had failed to provide sufficient evidence of his mother's physical presence in the United States. The field office director thus determined that the applicant was ineligible to derive citizenship under section 301(g) of the Act, 8 U.S.C. § 1401(g).

On appeal, the applicant, through counsel, states that the director "erred in concluding that Applicant's mother failed to establish the required physical presence [sic]." See Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO. The applicant further indicates that he will be submitting a brief in support of his claim within 30 days. See Form I-290B, Notice of Appeal to AAO, Part 2. The AAO notes that no such brief has been received by this office to date.

The field office director found that the evidence submitted was insufficient to show, by a preponderance of the evidence, that the applicant's mother was physically present in the United States as required by the Act. The applicant claims that the director erred, but no other argument or evidence was submitted in support of the appeal. The AAO notes further that the applicant has not submitted a corrected birth certificate, or otherwise explained why the process of correcting his birth certificate has taken over two years (when the attorney's letter submitted states it would be resolved within 90 days). The applicant also has not provided any additional evidence of his mother's physical presence in the United States. The evidence in the record does not establish that the applicant's mother was physically present in the United States as required by the Act.

8 C.F.R. § 103.3(a)(1) states in pertinent part that:

(v) Summary dismissal. 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. (emphasis added)

¹ The AAO notes that the applicant's birth certificate indicates that his mother is [REDACTED]. The applicant's mother explained that she registered the applicant's birth using an assumed name, and that she is in the process of obtaining a corrected birth certificate. DNA test results indicate that [REDACTED] is the applicant's biological mother.

The regulations require that the AAO summarily dismiss the applicant's appeal because he failed to identify specifically any erroneous conclusion of law or statement of fact in the field office director's decision. The appeal is therefore summarily dismissed.

ORDER: The appeal is summarily dismissed.