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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**

E₂



FILE: [REDACTED] Office: EL PASO, TX Date: **AUG 19 2010**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Former Section 301(a)(7) of the Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7)(1985).

ON BEHALF OF APPLICANT:

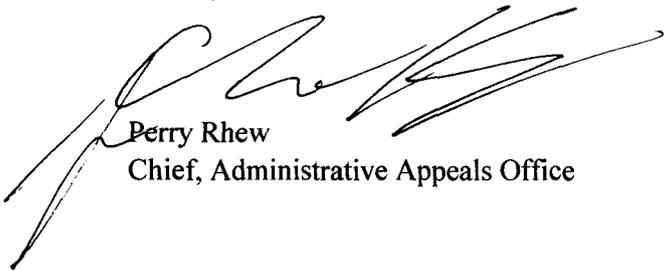
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
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 dismissed.

The record reflects that the applicant was born on December 29, 1985 in Mexico. The applicant's parents, as indicated on his birth certificate, are [REDACTED]. The applicant's father was born in the United States in 1967. The applicant's parents were married in Texas in 1988. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father.

The field office director found that the applicant had failed to establish that his father had the required period of physical presence in the United States prior to the applicant's birth. The director noted that it was mathematically impossible for the applicant's father to establish that he was physically present in the United States for five years after attaining the age of 14 in 1981 (before the applicant's birth in 1985). The director therefore concluded that the applicant did not acquire U.S. citizenship under former section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g) (1985).¹

On appeal, the applicant indicates that he would be submitting a brief or additional evidence within 30 days. See Form I-290B, Notice of Appeal. To date, over four months later, no brief or additional evidence has been received by this office.

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.

The applicant's appeal fails to identify 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 dismissed.

¹ Former section 301(g) of the Act replaced former section 301(a)(7) of the Act upon enactment of the Act of October 10, 1978, Pub. L. 95-432, 92 Stat. 1046. The substantive requirements of this provision remained the same until the enactment of the Act of November 14, 1986, Pub. L. 99-653, 100 Stat. 3655. Section 301(g) of the Act, as amended in 1986, only requires an applicant to establish that his U.S. citizen parent was physically present for five years prior to the applicant's birth, two of which while over the age of 14. Because the applicant was born in 1985, the longer physical presence requirements (10 years including five years over the age of 14) of former section 301(g) of the Act apply to his case. See *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1028 n.3 (9th Cir. 2001) (internal citation omitted) (applicable law is that in effect at the time of the child's birth).

