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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

E<sub>2</sub>

[REDACTED]

FILE:

[REDACTED]

Office: EL PASO, TX

Date:

DEC 28 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) (1981).

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 \$630. 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 came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed. The applicant has filed a motion to reopen the AAO's prior decision. The applicant's motion will be granted and the prior decision of the AAO will be affirmed. The application remains denied.

The applicant was born on January 31, 1981 in Mexico. The applicant's parents are [REDACTED] and [REDACTED]. The applicant's father was born in Mexico on March 3, 1959, but acquired U.S. citizenship at birth. The applicant's parents were married in Mexico on June 30, 1976. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father.

The Field Office Director found, in relevant part, that the applicant had failed to establish that his father had been physically present in the United States as is required by former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7) (1972).<sup>1</sup> The Field Office Director noted in his decision that the applicant's attorney conceded that the applicant's father did not have the required physical presence in the United States.

On appeal, the applicant indicated that additional evidence would be submitted, but none was received by this office. The AAO dismissed the applicant's appeal finding that he had failed to establish that his father had the physical presence in the United States as required by former section 301(a)(7) of the Act. The applicant now seeks a reopening of his case.

As noted in our prior decision, former section 301(a)(7) of the Act requires that the applicant establish that his father was physically present in the United States for at least 10 years prior to 1981 (the applicant's date of birth), five of those years being after March 3, 1973 (the applicant's father's fourteenth birthday).

The record in this case contains, in relevant part, a copy of the applicant's birth certificate, his parents' marriage certificate, his father's certificate of citizenship, documents relating to the applicant's paternal grandmother, and copies of the applicant's school records. A note in the applicant's Form N-600, Application for Certificate of Citizenship, indicates that the applicant's father resided in Mexico from birth in 1959 until 1969, thereafter commuting to the United States to work for seven or eight years, and did not return to the United States until 1988. The applicant submits a letter from his uncle, dated March 3, 2009, stating generally that the applicant's father lived in his parents' house in Texas from 1966 to 1970. At best, the applicant's uncle's letter relates only to four years of presence in the United States. The AAO notes also that the information in the letter contradicts the dates provided by the applicant's father in his application for a certificate of citizenship. The AAO concludes that the applicant has not established that his father had the

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<sup>1</sup> Former section 301(a)(7) of the Act was re-designated as section 301(g) 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.

required ten years of physical presence in the United States in order to transmit U.S. citizenship under former section 301(a)(7) of the Act. The applicant did not acquire U.S. citizenship under this or any other provision of the Act.

The applicant bears the burden of proof in these proceedings to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Act, 8 U.S.C. § 1452; 8 CFR § 341.2(c). The applicant has not met his burden of proof. Accordingly, the prior decision of the AAO will be affirmed and the application will remain denied.

**ORDER:** The June 4, 2010 decision of the Administrative Appeals Office is affirmed. The application remains denied.