

Identifying data in this document
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

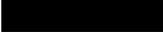
PUBLIC COPY

E 2



Date: DEC 09 2011

Office: HARLINGEN, TX

File: 

IN RE: 

APPLICATION: Application for Certificate of Citizenship under sections 201 and 205 of the Nationality Act of 1940, 8 U.S.C. §§ 601 and 605 (1945).

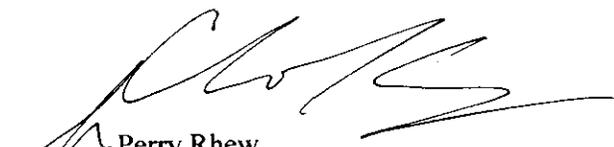
ON BEHALF OF APPLICANT: Self-represented

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 Field Office Director, Harlingen, Texas denied the Application for Certificate of Citizenship (Form N-600) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant seeks a certificate of citizenship pursuant to sections 201 and 205 of the Nationality Act of 1940 (the 1940 Act), 8 U.S.C. §§ 601 and 605 (1945), based on the claim that he acquired U.S. citizenship at birth through his mother.

The Field Office Director found that the applicant failed to establish that he met the requirements in section 205 of the 1940 Act because he was not born out-of-wedlock and that he did not meet the physical presence requirements in section 201 of the 1940 Act. The application was denied accordingly. *See Field Office Director's Decision*, dated March 22, 2011. On April 23, 2011, [REDACTED] submitted a Form I-290B to appeal the field office director's adverse decision. [REDACTED] did not attach a Form G-28, Notice of Entry of Appearance as Attorney or Representative, along with the Form I-290B.

On October 28, 2011, the AAO sent a facsimile to [REDACTED] requesting that he submit a properly executed Form G-28 for the appeal within seven days. In response to the AAO's request, [REDACTED] submitted a facsimile of the Form G-28 submitted with the Form N-600, dated December 30, 2010.

The regulation at 8 C.F.R. § 292.4(a) states, in pertinent part:

Authority to appear and act. An appearance must be filed on the appropriate form as prescribed by DHS by the attorney or accredited representative appearing in each case. The form must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS. The appearance will be recognized by the specific immigration component of DHS in which it was filed until the conclusion of the matter for which it was entered. *This does not change the requirement that a new form must be filed with an appeal filed with the Administrative Appeals Office of USCIS.* , , , (Emphasis added)

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) states that, if an appeal is submitted by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal, the appeal is considered improperly filed.¹ Here, while [REDACTED] is a licensed attorney and he submitted a Form G-28 with the original Form N-600, he has failed to provide an executed Form G-28 authorizing him to represent the applicant on appeal; therefore, [REDACTED] is not entitled to file an appeal on behalf of the applicant. Accordingly, as the appeal was improperly filed, it must be rejected.

ORDER: The appeal is rejected.

¹ The AAO also notes the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), which provides that an appeal may be considered properly filed as of its original filing date only if the attorney or representative submits a properly executed Form G-28 entitling that person to file the appeal.