

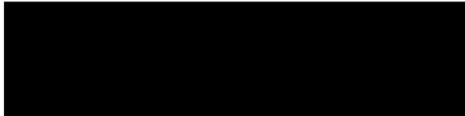
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



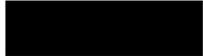
**U.S. Citizenship
and Immigration
Services**



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Date: **MAY 11 2012**

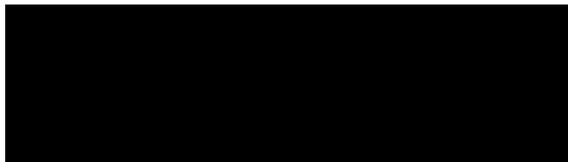
Office: BLOOMINGTON, MN

FILE: 

IN RE: 

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) (1975)

ON BEHALF OF APPLICANT:

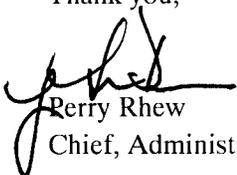


INSTRUCTIONS:

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 for Certificate of Citizenship (Form N-600) was denied by the Field Office Director, Bloomington, Minnesota, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in wedlock in the Federal District of Mexico, Mexico, [REDACTED]. The applicant's mother acquired U.S. citizen at birth. The applicant's father is not a U.S. citizen. The applicant seeks a certificate of citizenship pursuant to former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7) (1975).

The field office director determined that the applicant was ineligible for a certificate of citizenship because the applicant failed to establish that his mother met the physical presence requirements under former section 301(a)(7) of the Act. *See Decision of the Field Office Director*, dated September 16, 2011. The application was denied accordingly. On appeal, counsel contends that the applicant has established that he acquired U.S. citizenship at birth. *See Memo*, dated November 21, 2011.

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. *See Chau v. INS*, 247 F.3d 1026, 1028 n.3 (9th Cir. 2001). The applicant in this case was born in 1975. Accordingly, former section 301(a)(7) of the Act controls his claim to acquired citizenship.¹

Former section 301(a)(7) of the Act stated that the following shall be nationals and citizens of the United States at birth:

a person born outside the geographical limits of the United States . . . of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States . . . for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States by such citizen parent may be included in computing the physical presence requirements of this paragraph.

Accordingly, the applicant must establish that his mother is a U.S. citizen who was physically present in the United States for a period or periods of at least ten years, at least five of which were after [REDACTED] the date on which the applicant's mother turned 14 years of age, and before the applicant's birth [REDACTED]. On appeal, counsel contends that the affidavits state that the applicant's mother spent a total of 352 hours in the United States from 1948 through 1965 on repeated trips; she resided in the United States from September 1965 until December 1970 and the applicant estimates that his mother spent at least 10.417 years in the United States prior to his birth. *See Memo*.

¹ Former section 301(a)(7) of the Act was re-designated as section 301(g) by the Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046 (1978). The requirements of former section 301(a)(7) remained the same after the re-designation and until 1986.

The applicant presented a Mexican Birth Certificate indicating that he was born to [REDACTED] and [REDACTED] on [REDACTED] 1975 in Mexico. *See Birth Certificate for [REDACTED]* registered April 16, 1975, in Naucalpan de Juarez, Mexico. The applicant presented a Marriage Certificate indicating that [REDACTED] married [REDACTED] in Mexico on [REDACTED] 1972. *See Marriage Certificate for [REDACTED] and [REDACTED]* The applicant presented a Certificate of Citizenship indicating that [REDACTED] acquired U.S. citizenship at birth. *See Certificate of Citizenship*, issued September 29, 2005. The applicant presented a U.S. passport for [REDACTED] issued on July 26, 2006. *See U.S. Passport [REDACTED]* The applicant presented a photocopy of a Nonresident Alien Mexican Border Crossing Card issued to [REDACTED] on February 7, 1957. *See Nonresident Alien Mexican Border Crossing Card*. The applicant presented a photocopy of a Jefferson Life Insurance Company Premium Notice issued to [REDACTED] on July 20, 1968, indicating her address as [REDACTED] Corpus Christi, Texas. *See Jefferson Life Insurance Company Premium Notice*. The applicant presented a photocopy of [REDACTED] charge account card for [REDACTED] indicating that the account was opened on October 16, 1971. *See [REDACTED] Charge Account Card*. The applicant presented a photocopy of a Cobb's Murphy's charge card for [REDACTED] indicating that the card expired at the end of September 1976. *See Cobb's Murphy's Charge Card*. The applicant present photocopies of charge cards for Weldon's, Parisian, Style Shop, FSC and Levine Stores Inc., which are all undated.

The applicant presented an affidavit from his mother, dated May 11, 2011, in which she stated that during the 1940's and 1950's and for at least ten years prior to the applicant's birth she would accompany her father to the United States to visit his relatives. She stated that these relatives were [REDACTED] who lived in Mission, Texas, and [REDACTED] and [REDACTED] who lived in Pharr, Texas. She stated that she would also come and shop at stores "el Puente" and "el Rio." She stated that she has a scar on her left arm from an inoculation which she was given while crossing the bridge at Hidalgo into the United States. On appeal, the applicant presented a sworn statement from his mother, dated October 10, 2011, in which she stated that during her infant years (1935-1950) her father would take her to visit his family who lived in Mission, Texas, "Granejo" [sic], Texas and Pharr, Texas. She stated that her father would visit family at least twice per week, spending hours with her cousins, uncles and aunts. She stated that she would sometimes spend the whole weekend with her cousins in Mission, Texas or Pharr, Texas. She stated that during this time she went to the grocery store with her mother and helped with the shopping every week in Hidalgo, Texas. She stated that her friend, [REDACTED] moved to Pharr, Texas in early 1948. She stated that she spent that summer (from the end of June until the end of August) at her friend's house. She stated that she also spent the month of December with her friend and that they decided to do this every year thereafter. She stated that they continued to do this until she moved to Corpus Christi in February 1965. She stated that she lived with her cousin, [REDACTED] in Corpus Christi. She stated that she took English classes at Del Mar College and found a job working as a housekeeper and babysitter for two years (1965-1967) for [REDACTED] She stated that she continued to reside with her cousin until December 1970, after which time she returned to the valley. She stated that she visited the Samuels and her cousin a few times before she moved to Mexico City in January 1972. She stated that, after her marriage in February 1972, she visited the United States to introduce her husband to the family. She stated that she visited again for Christmas the same year (1972). The

applicant's mother's statements, while providing a general overview of how she spent her time in the United States, lack the probative details concerning the precise time periods when she was physically present in the United States.

The applicant presented a sworn statement from [REDACTED] dated May 5, 2011, in which she stated that she has known the applicant's mother since 1943. She stated that she moved to Pharr, Texas in 1948. She stated that the applicant's mother and she would try to spend the weekends together especially during the summer and holidays. She stated that during the summer of 1953 the two families took a trip to South Padre Island. She stated that she would pick up the applicant's mother almost every Saturday because they would enjoy spending long hours shopping and walking around the Main Street of McAllen, Texas. She stated that sometimes they would make an effort to meet during lunchtime. She stated that she cannot clearly recall the years, but this must have occurred from 1959 through 1965. She stated that on each of their birthdays, she and the applicant's mother would spend time together. She stated that she recalls the applicant's mother helping their mothers with dinner preparations for a Christmas Celebration at her family's house in Pharr, Texas when they were 12 or 13 years old. She stated that the applicant's mother spent a few days with her when the applicant's mother died. She stated that she visited the applicant's mother a few times in Corpus Christi, Texas while the applicant's mother was studying there. She stated that she is uncertain of the times, but she believed that it was in 1965 or 1966. On appeal, the applicant presented a sworn statement from [REDACTED] dated October 11, 2011, in which she stated that her family's address in Pharr, Texas is [REDACTED]. She stated that the year she moved to Pharr, Texas (1948) and every year thereafter until 1965, the applicant's mother lived at her house in Pharr, Texas for the months of July, August and December. She stated that during the times that the applicant's mother did not reside with her family they would meet as frequently as possible. She stated that they met every Saturday in downtown McAllen, Texas, where they would spend all day shopping and catching up. She stated that sometimes the applicant's mother would stay over and they would go to church together the next morning. She stated that the applicant's mother and she would go to the [REDACTED] family ranch in "Grangeno" [sic], Texas. She stated that during the summer of 1953, while the applicant was living with her, the two families took a trip to South Padre Island. She stated that the applicant's mother spent about two weeks with her in Pharr, Texas after her mother died in 1950 or 1951. [REDACTED] statements lack detail and are internally inconsistent as to the lengths of time during which the applicant's mother would reside with her. Specifically, [REDACTED] initially indicated that the applicant's mother and she would try to spend the weekends together especially during the summer and holidays, while in her second statement she indicated that the applicant's mother lived at her house in Pharr, Texas for the months of July, August and December every year from 1948 until 1965.

The applicant presented a sworn statement from [REDACTED] dated June 26, 2009, in which she stated that, about 1965 the applicant's mother lived with her and her family at [REDACTED] Christi, Texas 78411. She stated that the applicant's mother took English classes at night at Del Mar College and worked during the day for the [REDACTED] family. She stated that the applicant's mother was with them until December 1970. On appeal, the applicant presented a sworn statement from [REDACTED] dated October 19, 2011, in which she stated that the applicant's mother visited her in Corpus Christi numerous times from 1954 until 1965. She stated that the applicant's mother moved to live with her and her family at [REDACTED] Corpus Christi, Texas 78411 in

January or February of 1965. She stated that the applicant's mother visited them again a couple of times during 1971. [REDACTED] statements lack detail and were inconsistent as to the address at which she resided in Corpus Christi.

The applicant presented a letter from [REDACTED] dated June 26, 2009, in which she stated that she hired the applicant's mother as a housekeeper and babysitter in September 1965. She stated that the applicant's mother attended classes three nights a week. She stated that the applicant's mother quit her job in February 1968 because the applicant's mother's cousin was having health problems. She stated that she kept in touch with the applicant's mother, sometimes visiting the applicant's mother and her cousin. She stated that the applicant's mother took care of her cousin for 2½ years. [REDACTED] statement provides no further probative information or supporting details.

On appeal, the applicant presents a letter from [REDACTED] the applicant's mother's sister, dated October 13, 2011, in which she stated that her father would visit relatives who lived in Mission and Pharr twice per week and would always take her and her sisters with him to spend long days with the family. She stated that the applicant's mother continued to visit with her father even after she stopped in 1943. She stated that the trips continued until maybe 1950, not very long after her mother died in 1951. She stated that the applicant's mother's friend moved to Pharr, Texas around 1948 or 1950 and that the applicant's mother continued to grow their friendship even after she moved. She stated that the applicant's mother would spend every summer, the entire month of July and August at least, and every December at her friend's house in Pharr. She stated that this continued until the applicant's mother moved to live with her cousin, where she lived and worked for several years. She stated that the applicant's mother returned to Mexico at the beginning of 1971, but continued to visit her cousin and her employer in Corpus Christi several times. She stated that the applicant's mother moved to Mexico City in January 1972 and married her husband in February 1972. She stated that the same year she visited the United States with her husband during the summer. She stated that the applicant's mother also visited for Christmas when she was pregnant with her first child and again in 1974, when she was pregnant with the applicant. [REDACTED] statement is inconsistent with [REDACTED] initial testimony indicating that the applicant's mother and she would try to spend the weekends together especially during the summer and holidays, rather than the applicant's mother spending entire months residing at [REDACTED] house.

On appeal, the applicant presents a letter from [REDACTED] the applicant's mother's sister, dated February 8, 2012, in which she stated that during her younger years, the applicant's mother and she would go with their father to visit family who lived in area of San Juan and Pharr, Texas. She stated that during those years, the applicant's mother and she would spend weekends at their cousin's houses (1940-1950). She stated that the applicant's mother moved to Corpus Christi, Texas and she is not sure if she stayed for 5 or 6 years (1965-1970/71). She stated that the applicant's mother and she would go with their mother to the store in the United States where they would buy household items. She stated that she could not recall specific dates, but the years of 1940 to 1950 is a conservative estimate. She stated that the applicant's mother had a good friend in the United States whom she visited often. She stated that she remembers the applicant's mother and her friend shopping in downtown McAllen, Texas. She stated that they would meet very often and spend a lot of time together. [REDACTED] statement lacks the probative

detail necessary to demonstrate that the applicant's mother was physically present in the United States during the claimed time periods.

Here, the applicant has failed to show by a preponderance of the evidence that his mother was physically present in the United States for a period or periods of at least ten years, at least five of which were after December 29, 1949, the date on which the applicant's mother turned 14 years of age, and before the applicant's birth on February 8, 1975.

First, while the Nonresident Alien Mexican Border Crossing Card, Jefferson Life Insurance Company Premium Notice and Thea's Smart Shop charge account card indicate that the applicant's mother was present in the United States in 1957, 1968 and 1971, there is no other contemporary evidence to support a finding that she was physically present in the United States for a period or periods of at least ten years, at least five of which were after December 29, 1949. Second, although the applicant provided multiple statements, including affidavits from the applicant's mother testifying that the applicant's mother was present in the United States, some of the statements indicate that the witnesses lack first-hand knowledge of the applicant's mother's exact whereabouts and activities during the periods in question; some are internally inconsistent with their prior testimony or are inconsistent with testimony provided by other witnesses. In addition, all of the affidavits lack detail and are not supported by other documentation of the applicant's mother's physical presence in the United States for the required period.

The applicant bears the burden of proof to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Immigration and Nationality Act, 8 U.S.C. § 1452; 8 C.F.R. § 341.2(c). The applicant has failed to establish by a preponderance of the evidence that his mother resided in the United States for the requisite period. Accordingly, the applicant is not eligible for a certificate of citizenship under former section 301(a)(7) of the Act, and the appeal will be dismissed.

ORDER: The appeal is dismissed.