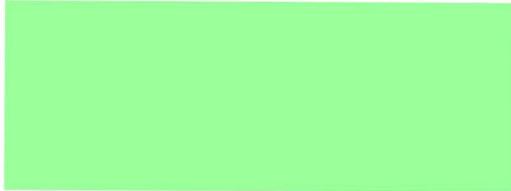




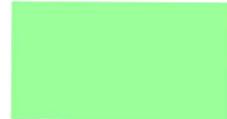
U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: Office: KANSAS CITY, MO

FILE:



FEB 19 2013

IN RE: Applicant:



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

ON BEHALF OF APPLICANT:



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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Kansas City, Missouri Field Office Director (the director) denied the Application for Certificate of Citizenship (Form N-600) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The application will remain denied.

*Pertinent Facts and Procedural History*

The applicant claims that he was born on July 1, 1991 somewhere in Mexico. He states that he does not know when he entered the United States but that he has been here most of his life. According to the applicant: "I have always known [M-D-O<sup>1</sup>] to be my mother and I do not know the identity of my birth father." The applicant states that the whereabouts of his mother are unknown, but he believes that she returned to Mexico. According to the record, the applicant had been in the custody of the State of Kansas, Department of Social and Rehabilitation Services. The applicant seeks a certificate of citizenship pursuant to section 301(f), claiming that he is a foundling.

The applicant filed his Form N-600 on March 14, 2012. The director determined that the applicant was ineligible for a certificate of citizenship because his school records provided the name of his mother and, therefore, he was not of unknown parentage. On appeal, counsel contends that the applicant is eligible for citizenship under section 301(f) of the Act because the identity of his father is unknown and, therefore, the applicant's "parentage" has not been established. Counsel submits a brief and a copy of the definition of "parentage" from Merriam Webster's Dictionary, as well as a copy of the Uniform Parentage Act (2000).

*Applicable Law*

The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Section 301(f) of the Act, 8 U.S.C. § 1401(f), states that the following shall be nationals and citizens of the United States at birth:

a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States[.]

*Analysis*

The evidence of record fails to demonstrate that the applicant is eligible for U.S. citizenship under section 301(f) of the Act. Counsel does not dispute that the identity of the applicant's mother is known and documented in the record. Rather, she states on appeal that the applicant's parentage is unknown because the identity of the applicant's father has not been established. Counsel's reasoning, however, is flawed.

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<sup>1</sup> Name withheld to protect identity.

Section 301(f) of the Act confers citizenship upon those individuals who do not know the identities of both biological parents, not just one parent. *See e.g. Orea-Hernandez v. Attorney Gen. of U.S.*, 449 F. App'x 143, 145-46 (3d Cir. 2011) (section 301(f) of the Act did not apply to an alien who knew the identities of both his parents, but whose father died before he was born and who was estranged from his mother). *See also*, U.S. Dept. of State, Foreign Affairs Manual, Cpt. 7 § 1118(a) (explaining that section 301(f) of the Act applies to “a child of unknown *parents*” (emphasis added)). Here, it is undisputed that M-D-O- is the applicant’s biological mother. The fact that his biological father is unknown does not make the applicant’s parentage unknown.

More importantly, even if the applicant could establish that he is of unknown parentage, his foreign birth was established before the age of twenty-one. The record contains an *Order Regarding Eligibility for Special Immigrant Juvenile Status*, from the Kansas District Court, Third Judicial District, State of Kansas. This Order was entered into on August 4, 2010 when the applicant was nineteen years old and states: “That the minor is believed to have been born in Mexico . . . and is presumed to be a citizen and national of Mexico.” The record also contains copies of the applicant’s public school records in Topeka, Kansas, which indicate that in August 2002 he withdrew from school to go to Mexico, and that he did not reenroll into the Topeka, Kansas school system until August 2004.<sup>2</sup> The applicant also stated in his affidavit: “I have no reason to believe that I was not born in Mexico,” and testifies that his older brother believes that the applicant, like him, was born in Mexico. According to the applicant, Social and Rehabilitative Services of Kansas were unable to locate a birth certificate for him in either Kansas or California, the state where one of his siblings was born. Counsel has presented no evidence or arguments on appeal to dispute that the applicant was not born in the United States.

*Conclusion*

The applicant bears the burden of proof to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 341.2(c). Here, the applicant has not met his burden and did not acquire citizenship under section 301(f) of the Act.

**ORDER:** The appeal is dismissed. The application remains denied.

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<sup>2</sup> According to the record, the applicant’s guardian presented a birth certificate of the applicant as proof his identity when completing a *Pupil Information Form* in 2009. Although the director requested a copy of the birth certificate from the Topeka public school system, the director was informed that the school system did not have a copy.