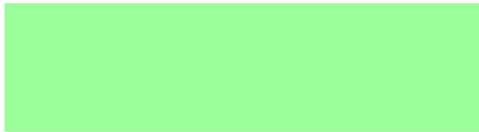




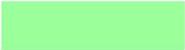
U.S. Citizenship  
and Immigration  
Services

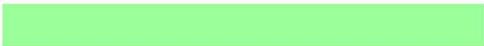
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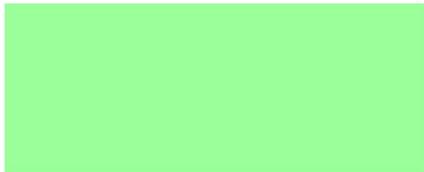
OFFICE: DENVER, CO

FILE: 

IN RE: 

APPLICATION: Application for Certificate of Citizenship under former Section 301 of the Immigration and Nationality Act; 8 U.S.C. § 1401

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

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

The applicant was born in Mexico on March 28, 1969, to married parents. The applicant's mother was born in the State of Nebraska on August 14, 1939, and is a U.S. citizen. The applicant's father was born in Mexico and 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 former Act), 8 U.S.C. § 1401(a)(7), based on the claim that he acquired U.S. citizenship at birth through his mother.

In a decision dated December 17, 2012, the director determined that the applicant had failed to establish that his mother was physically present in the United States for 10 years prior to his birth, at least five years of which were after the applicant's mother turned 14, as required by the former Act. The application was denied accordingly.

Through counsel, the applicant asserts on appeal that the director failed to consider all of the evidence in the record; and that affidavit, sworn statement, and documentary evidence establishes by a preponderance of the evidence that the applicant's mother was physically present in the United States for the required time period required set forth in section 301(a)(7) of the former Act. In support of the assertions, counsel submits U.S. employment, training, and health card information for the applicant's mother, as well as sworn statements and affidavits from the applicant's mother and a friend. The entire record was reviewed and considered in rendering a decision on the appeal.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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. *Chau v. INS*, 247 F.3d 1026, 1028 n.3 (9th Cir. 2001). In the present matter the applicant was born in 1969. Section 301(a)(7) of the former Act therefore applies to his citizenship claim.

Under section 301(a)(7) of the former Act provides, in pertinent part, that the following shall be 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[.]

Because the applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. See *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). See also, 8 C.F.R. § 341.2(c) (the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence.) The "preponderance of the evidence" standard requires that the record demonstrate that the applicant's claim is "probably true," based on the specific facts of each case. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80

(Comm. 1989)). Even where some doubt remains, an applicant will meet this standard if she or he submits relevant, probative and credible evidence that the claim is “more likely than not” or “probably” true. *Id.* (citing *INS v. Cardoza-Fonseca*, 480 U.S. 421, 431 (1987)).

To establish that the applicant’s mother was physically present in the United States for 10 years prior to the applicant’s birth on March 28, 1969, at least five years of which were after his mother turned 14 on August 14, 1953, the record contains El Paso, Texas health cards issued to the applicant’s mother on June 22, 1961 and October 16, 1963. Each card has a six month validity period and states that the applicant’s mother is unemployed.

U.S. Social Security Administration evidence for the applicant’s mother reflects no earnings history in the United States; however, pay receipts from [REDACTED] Employment Office reflect that the applicant’s mother received lunch and carfare expense payment and \$3.75 an hour for 7 hours of work done at various addresses in the United States in 1960 on: June 16<sup>th</sup>, June 30<sup>th</sup>, August 18<sup>th</sup>, August 27<sup>th</sup>, August 31<sup>st</sup>, and September 9<sup>th</sup>; as well as in 1961 on July 3<sup>rd</sup>, July 29<sup>th</sup>, August 19<sup>th</sup>, September 2<sup>nd</sup>, September 22<sup>nd</sup>, and December 1<sup>st</sup>. The record contains a [REDACTED] Employment Office health card for the applicant’s mother, dated March 11, 1964. Evidence that the applicant’s mother completed a [REDACTED] course in El Paso, Texas on June 10, 1956 is also contained in the record.

The applicant’s mother states in pertinent part, in an affidavit and a sworn statement dated July 30, 2012, that she lived in the United States from the time of her birth in 1939 until 1950, when she moved with her family to Mexico. While in the United States, she accompanied her mother to work in the fields and to work in people’s homes, and she does not remember attending school in the United States. She states that she lived with her family in Mexico between 1950 and 1955. She then returned to El Paso, Texas, where she lived in the home of a pastor on [REDACTED] until around 1966 or 1967 when he died in a car accident. She states that she cleaned houses and worked in the fields picking cotton and chilies after returning to El Paso, Texas. After marrying her husband in Mexico in 1965, she moved back and forth between Mexico and the United States.

Friend, [REDACTED] states in identical letters dated August 1, 2011 and June 15, 2012 that he and the applicant’s mother worked together between 1957 and 1972 harvesting cotton and chilies in the fields in El Paso, Texas. He states that the applicant’s mother also cleaned houses for people in El Paso, Texas during that time.

[REDACTED] states in pertinent part, in a letter dated July 26, 2012, that she has known the applicant’s mother since she was a child in 1959, and that the applicant’s mother did housework for their family. [REDACTED] husband, [REDACTED], states in an October 6, 2012 letter that he has known the applicant’s mother since childhood; that they are related and grew up together; that they have kept in touch throughout their lives; and that the applicant’s mother stayed at his house in El Paso, Texas periodically.

The record also contains photographs of a street sign and a store on [REDACTED] in El Paso, Texas. A list of names of persons buried at [REDACTED] in El Paso County, Texas is also included in the record.

Upon review, the AAO finds that the applicant has failed to establish by a preponderance of the evidence that his mother was physically present in the United States for 10 years prior to the applicant's birth on March 28, 1969, at least five years of which were after his mother turned 14 on August 14, 1953.

In ascertaining the evidentiary weight of affidavits, the Service must determine the basis for the affiant's knowledge of the information to which she or he is attesting; and whether the statement is plausible, credible, and consistent both internally and with the other evidence of record. *Matter of E-M-*, 20 I&N Dec. 77 (Comm. 1989). In the present matter, the letters, affidavits, and sworn statements contained in the record have diminished evidentiary weight. The record lacks corroborative evidence to establish the affiants' residence or employment in the United States during the claimed time periods. Moreover, the statements made regarding the dates and places that the applicant's mother lived and worked in the United States lack material detail and are uncorroborated by independent documentary evidence.

The Social Security Administration evidence reflects that the applicant's mother earned no income in the United States. Moreover, although evidence contained in the record reflects that the applicant's mother worked in the United States for a total of twelve days in 1960 and 1961, the evidence does not reflect or establish that the applicant's mother lived in the United States, or that she was physically present in the country beyond the twelve days that she worked during those years. The [REDACTED] training and employment and Texas health card evidence also fails to demonstrate how long the applicant's mother was physically present in the United States during the years that the documents were issued, and the documents fail to establish that she lived in the United States for any period of time during those years. Furthermore, the street sign, photograph, and cemetery evidence fails to establish that the applicant's mother lived on [REDACTED] or that she was physically present in the United States for 10 years prior to the applicant's birth on March 28, 1969, at least five years of which were after she turned 14 on August 14, 1953.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. In the present matter, the applicant has failed to establish by a preponderance of the evidence that his mother was physically present in the United States for 10 years prior to his birth, at least five years of which were after his mother turned 14, as required by section 301(a)(7) of the former Act. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.