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

U.S. Citizenship and Immigration Services

(b)(6)

Date: APR 2 8 2014 Office: OAKLAND PARK, FL FILE:

IN RE: Applicant:

APPLICATION: Application for Certificate of Citizenship under Section 309(c) of the Immigration and Nationality Act; 8 U.S.C. § 1409(c).

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 Director of the Oakland Park, Florida Field Office (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.

Pertinent Facts and Procedural History

The applicant was born in the Bahamas on August 1, 1991. The applicant was born out of wedlock to [redacted] The applicant's father's name is not listed on the applicant's birth certificate. The applicant's mother was born in Palm Beach, Florida on October 14, 1952. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his mother.

The director found that the applicant did not acquire U.S. citizenship at birth under section 309(c) of the Act, 8 U.S.C. § 1409(c), because he could not establish that his mother was physically present in the United States for a continuous period of one year prior to the applicant's birth. *See Director's Decision*, dated August 22, 2012.

On appeal, the applicant, through counsel, maintains that his mother was present in the United States for "many years prior to his birth." *See* Statement of the Applicant on Form I-290B, Notice of Appeal or Motion. In support of the appeal, the applicant submits a letter from [redacted] dated October 12, 2012.

Applicable Law

The AAO reviews these proceedings *de novo*. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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). 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. *See Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-,* 20 I&N Dec. 77, 79-80 (Comm'r. 1989)).

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. Immigration and Naturalization Service,* 247 F.3d 1026, 1028 n.3 (9th Cir. 2001) (internal citation omitted). The applicant in the present matter was born in 1991. Section 309(c) of the Act is applicable to his case.

Section 309(c) of the Act states, in pertinent part:

> [A] person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present

> in the United States or one of its outlying possessions for a continuous period of one year.

Analysis

The applicant's mother's birth certificate and school record are the only objective, documentary evidence of her physical presence in the United States. The applicant submits signed statements from her mother's siblings, and as well as purporting to establish that his mother was physically present in the United States as is statutorily required.

Depending on the specificity, detail, and credibility of a letter or statement, U.S. Citizenship and Immigration Services (USCIS) may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." Id. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The statements submitted by the applicant lack specificity, detail and credibility. As noted by the director, while one declarant states that the applicant's mother moved to the United States in 1991, others state that she was residing in the United States in 1990. The most recent letter from states that her sister, the applicant's mother, was in the United States until the age of 12. She also states that the applicant's mother traveled back and forth to Bahamas, and returned to the United States after their grandmother passed away. Ms. ' letter contains no dates or other specific information regarding the applicant's mother's travel or residence.

The Board of Immigration Appeals held in *Matter of Tijerina-Villarreal,* 13 I&N Dec. 327, 331 (BIA 1969), that:

> [W]here a claim of derivative citizenship has reasonable support, it cannot be rejected arbitrarily. However, when good reasons appear for rejecting such a claim such as the interest of witnesses and important discrepancies, then the special inquiry officer need not accept the evidence proffered by the claimant. (Citations omitted.)

The applicant and counsel have failed to explain the unavailability of corroborating, documentary evidence such as census, medical, employment or tax records. The applicant's mother's school transcript indicates that she attended first grade in a Florida school. There is no explanation why records of school attendance after first grade are unavailable. In sum, the applicant cannot establish that it is more likely than not that his mother was physically present in the United States for a continuous period of one year prior to 1991.

Conclusion

It is the applicant's burden to establish eligibility for the immigration benefit sought. *See* Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 341.2(c). Here, that burden has not been met.

ORDER: The appeal is dismissed.