

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

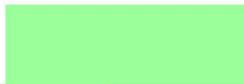


U.S. Citizenship  
and Immigration  
Services

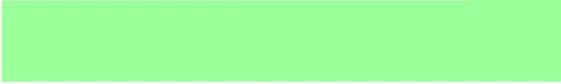


Date: FEB 06 2014

Office: SAN ANTONIO, TX

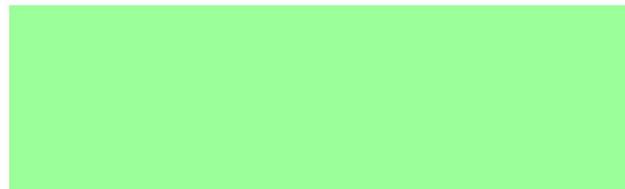
FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Certificate of Citizenship under former Section 301(g) of the Immigration and Nationality Act, 8 U.S.C. § 1401(g) (1983).

ON BEHALF OF APPLICANT:

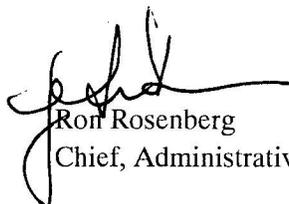


INSTRUCTIONS:

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 San Antonio, Texas 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 and the application will remain denied.

The applicant seeks a certificate of citizenship, on the basis that he derived U.S. citizenship through his father under former section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g) (1983).

The director denied the Form N-600 because the applicant resided outside the United States and therefore, jurisdiction over his claim of U.S. citizenship fell within the authority of the U.S. Department of State. On appeal, the applicant through counsel makes no assertion of legal or factual error in the director's decision, but he submits a bank letter and copies of two lease agreements to establish the applicant's residence in the United States.

#### *Applicable Law*

The AAO conducts appellate review on a de novo basis. *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).

Section 341(a) of the Act, 8 U.S.C. § 1452, provides that a person who claims to have derived U.S. citizenship through a qualifying relative may apply to the Attorney General (now the Secretary of the Department of Homeland Security) for a certificate of citizenship, and that a certificate may be furnished by the Secretary if such individual is at the time within the United States.

A citizenship claim made by an individual physically present outside of the United States is only properly made before the U.S. Department of State (DOS) through a consular officer. *See* Section 104(a) of the Act, 8 U.S.C. § 1104(a) (providing, in pertinent part, that the "Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to . . . (3) the determination of nationality of a person not in the United States"); *see also* 22 C.F.R. § 50.2 (providing that DOS "[s]hall determine claims to United States nationality when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America. . .").

#### *Analysis*

The applicant specified on his Form N-600, signed on February 7, 2013, that he resided in Mexico. The January 23, 2013 Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, submitted in this matter also indicated the applicant's residence to be in Mexico. The record before the director contained no evidence that the applicant was physically present in the United States at the time his Form N-600 was filed, or that he made an entry into the United States since the filing of his Form N-600. Accordingly, the director properly denied the application.

The applicant here has failed to articulate a legal basis for his appeal, as Part 3 of the Form I-290B,

Notice of Appeal or Motion Form, was left blank. However, as noted, he submitted evidence on appeal, including: an undated U.S. bank letter setting forth the U.S. address on the applicant's bank account as [REDACTED]; two untranslated documents;<sup>1</sup> and the applicant's two lease agreements for the property at [REDACTED] covering the periods from June 2012 to November 2012 and from December 2012 to December 2013.

The applicant's evidence on appeal fails to establish that he was eligible for the benefit he was seeking at the time he filed his application as he was not physically present in the United States. 8 C.F.R. 103.2(b)(1). The bank letter the applicant proffered indicates only that he opened a bank account and provided a U.S. address for the account. Similarly, the lease agreements only show that the applicant leased the premises at a U.S. address but do not provide probative evidence that the applicant was in the United States when he filed his Form N-600. The remaining two documents submitted on appeal are untranslated and offer no probative evidence of the applicant's physical presence as of the date he filed his Form N-600. Accordingly, the applicant has not satisfied his burden to demonstrate that he is eligible to file a Form N-600 with United States Citizenship and Immigration Services.

*Conclusion*

The applicant bears the burden of proof to establish his eligibility for U.S. citizenship under the Act. Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 341.2(c). Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed and the application will remain denied.

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<sup>1</sup> The regulations at 8 C.F.R. § 103.2(b)(3) require that any document containing foreign language submitted to USCIS be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.