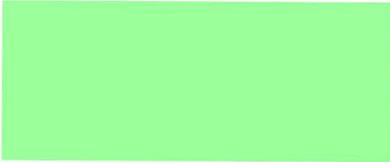


(b)(6)



U.S. Citizenship
and Immigration
Services



Date: **JUL 14 2014**

Office: HIALEAH, FL

FILE: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Sections 301 and 309(a) of the Immigration and Nationality Act; 8 U.S.C. §§ 1401 and 1409.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Hialeah, 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 out of wedlock in Panama on November 5, 2001. The applicant's father was born on October 19, 1949 in Panama, but acquired U.S. citizenship at birth through his father. The applicant's mother is not a U.S. citizen. The applicant resides in Panama and seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father.

The director denied the applicant's citizenship claim, finding that he had failed to establish his father's U.S. citizenship. On appeal, the applicant's father submits evidence of his U.S. citizenship and employment in the United States.

Applicable Law

The AAO reviews these proceedings *de novo*. 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. 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 2001. Section 301(g) of the Act, 8 U.S.C. § 1401(g), is therefore applicable to his case. Because the applicant was born out of wedlock, he must also fulfill the requirements of section 309(a) of the Act, 8 U.S.C. § 1409(a), as amended.

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, Department of Homeland Security) for a certificate of citizenship, and that a certificate may be furnished by the Attorney General 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 evidence in the record establishes that the applicant was physically present and residing outside of the United States in Panama when his Form N-600 was filed with U.S. Citizenship and Immigration Services (USCIS). The applicant's father indicated in Part 3, Question 5(C) of the Form N-600, that that applicant has never been to the United States. The record contains no evidence that the applicant is currently, or has ever been, physically present in the United States.

As noted above, a citizenship claim made by an individual physically present outside of the United States is only properly made before a consular officer.

As the record demonstrates that the applicant is physically present in Panama, jurisdiction to adjudicate his claim to U.S. citizenship lies within the U.S. Department of State, not USCIS. Accordingly, the applicant's appeal must be dismissed and his Form N-600 must remain denied.

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. The application remains denied.