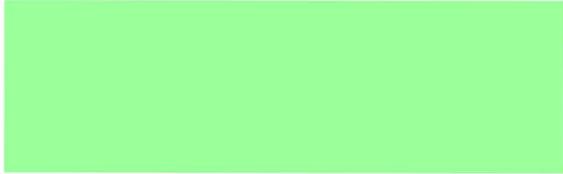




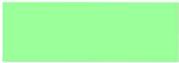
U.S. Citizenship  
and Immigration  
Services

(b)(6)

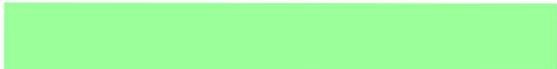


Date: JUL 29 2014

Office: NEW YORK, NY

FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Certificate of Citizenship pursuant to Section 1993 Revised Statutes, as amended by the Act of May 24, 1934, Pub.L. 73-250, 48 Stat. 797.

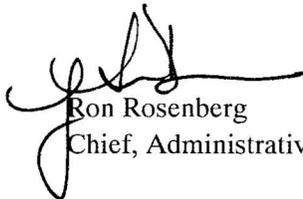
ON BEHALF OF APPLICANT:

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.

Thank you,



Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the New York District 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 sustained and the matter returned to the director for issuance of a certificate of citizenship to the applicant.

*Pertinent Facts and Procedural History*

The applicant was born in the Dominican Republic on [REDACTED]. The applicant was born out of wedlock to [REDACTED]. The applicant's mother was born in [REDACTED]. The applicant was admitted to the United States as a lawful permanent resident in 1978. The applicant seeks a certificate of citizenship claiming that she acquired U.S. citizenship at birth through her mother.

The director denied the application upon finding that the applicant's mother did not reside in the United States prior to the applicant's birth. *See Director's Decision*, dated October 2, 2012.

On appeal, the applicant maintains that her mother's residence in [REDACTED] until 1915 establishes her residence in the United States. *See Appeal Statement*. The applicant states that the director erred in failing to consider the applicant's mother's residence in [REDACTED] prior to the enactment of the Jones Act of 1917. *Id.*

*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 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 (9<sup>th</sup> Cir. 2001) (internal citation omitted). The applicant in the present matter was born in 1920. The Act of 1855, which was incorporated into the Revised Statutes as section 1993, is therefore applicable to this case.

The Revised Statutes, as in effect at the time of the applicant's birth, provided for U.S. citizenship for children born abroad to U.S. citizen fathers. In 1994, section 301(h) of the Act, 8 U.S.C. § 1407, was enacted to allow for acquisition of U.S. citizenship by persons born prior to 1934 through a U.S. citizen mother as well.<sup>1</sup> In either case, residence in the United States by the parent prior to the child's birth was a requirement for acquisition of U.S. citizenship.

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<sup>1</sup> Section 301(h) of the Act further provides that retention requirements are inapplicable in these circumstances.

*Analysis*

At issue in this case is whether the applicant's mother's residence in [REDACTED] prior to 1915 satisfies the statutory residence requirement for transmission of U.S. citizenship at birth to the applicant.

The applicant's mother was born in 1884 in [REDACTED]. Under the Treaty of Paris, 30 Stat. 1754, Puerto Rico was incorporated into the United States as of April 11, 1899, the date of treaty ratification. Thus, the applicant's mother's residence in the United States from 1900 until 1915 is deemed to be residence in the United States, and establishes that the applicant's mother transmitted U.S. citizenship to the applicant at birth.<sup>2</sup>

*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 been met.

**ORDER:** The appeal is sustained. The matter is returned to the director for issuance of a certificate of citizenship to the applicant.

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<sup>2</sup> *See* Chapter 7 of the Foreign Affairs Manual (FAM), section 1135.2-3(d)(1), which states, in pertinent part that: "In individual cases, residence in Puerto Rico after April 10, 1899, was held to be sufficient for transmitting U.S. citizenship."