



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **NOV 05 2014**

Office: LOS ANGELES, CA

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

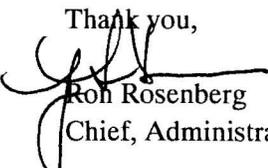
INSTRUCTIONS:

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 Director of the Los Angeles, California 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 on June [REDACTED] in Mexico. The applicant's father is a U.S. citizen born in California on December [REDACTED]. The applicant seeks a certificate of citizenship claiming that he automatically derived U.S. citizenship through his father pursuant to section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The director determined that the applicant was not residing in the United States and therefore outside the jurisdiction of U.S. Citizenship and Immigration Services (USCIS). The application was accordingly denied.

On appeal, the applicant, through counsel, maintains that he acquired U.S. citizenship at birth from his father. *See* Appeal Brief.

Applicable Law

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.

Analysis

When the applicant filed his Form N-600 with USCIS on May 28, 2013, he was physically present and residing outside of the United States in Mexico. *See* Form N-600, Application for Certificate of Citizenship, Part 2, Questions 10; 16(C). The record contains no evidence that the applicant is currently, or has ever been, physically present in 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 . . .”).

As the record demonstrates that the applicant is physically present in Mexico, jurisdiction to adjudicate his claim to U.S. citizenship lies under section 301(g) of the Act within the U.S. Department of State, and not USCIS.¹

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.

¹ We note that the applicant's father may file with USCIS a Form N-600K, Application for Certificate of Citizenship under Section 322 of the Act, on the applicant's behalf. Section 322 of the Act, 8 U.S.C. § 1433, provides for issuance of a certificate of citizenship upon establishing, in relevant part, that:

- (1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.
- (2) The United States citizen parent [or grandparent] . . . has . . . been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years . . .
- (3) The child is under the age of eighteen years.
- (4) The child is residing outside of the United States in the legal and physical custody of the applicant [citizen parent] . . .
- (5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.