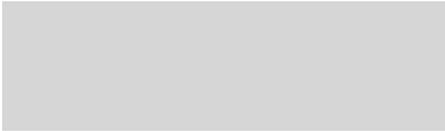




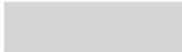
U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **APR 15 2015**

Office: PHOENIX, AZ

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 Field Office Director, Phoenix, Arizona 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.

The applicant was born in Mexico on [REDACTED]. According to her birth certificate, the applicant was born out of wedlock to [REDACTED]. The applicant's father's name is not listed on the applicant's birth certificate.<sup>1</sup> The applicant asserts that her mother was born in [REDACTED] Texas on [REDACTED]. The applicant seeks a certificate of citizenship claiming that she acquired U.S. citizenship at birth through her mother.

In his decision, dated November 15, 2013, the field office 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 she could not establish that her mother was physically present in the United States for a continuous period of one year prior to the applicant's birth. In addition, given the discrepancies in the record, the field office director indicated that the record was not clear as to whether the woman who was the applicant's mother was also a U.S. citizen.

On appeal, the applicant, through counsel, submits affidavits from her aunt and brother attesting to her mother's presence in the United States prior to her birth and a Statement of Physical Presence for [REDACTED]. Counsel states that she is also submitting documentation to show that the applicant's mother is the same woman named in the documents showing U.S. citizenship.

Because the applicant was born abroad, she is presumed to be an alien and bears the burden of establishing her 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 (9<sup>th</sup> Cir. 2001) (internal citation omitted). The applicant in the present matter was born in [REDACTED]. 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

<sup>1</sup> Notations on the birth certificate state that the applicant's father was [REDACTED] that the applicant was legitimated when her parents married, and that her mother's correct name is [REDACTED]

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

Before determining whether the applicant's mother was continuously physically present in the United States for one year prior to the applicant's birth, it must be determined whether the documentation in the record establishes that the applicant's mother is a U.S. citizen. The record fails to establish that the applicant's mother was a U.S. citizen in that it fails to establish that ' [REDACTED] ' the woman named as the applicant's mother on her birth certificate, and ' [REDACTED] ' the woman named on the Texas birth certificate establishing U.S. citizenship, are the same person.

The identity documents related to [REDACTED] include: the applicant's birth certificate, the applicant's mother's marriage certificate, and a 1993 Mexican Voter Registration Card. The identity documents in the record related to [REDACTED] include: two copies of baptismal certificates, a Texas birth certificate, a social security card, and a [REDACTED] Membership Card from 1993.

While the record does show that ' [REDACTED] ' was a U.S. citizen and that there is some reason to believe [REDACTED] and [REDACTED] were the same person, the record includes many discrepancies that have not been explained

The record does not explain why throughout periods of her life [REDACTED] would simultaneously go by the name ' [REDACTED] ' On the applicant's birth certificate in [REDACTED], on her marriage certificate in [REDACTED], and on her Mexican Voter ID card in 1993 the woman in question used the name ' [REDACTED] ' The baptismal certificates dated [REDACTED] Texas birth certificate filed in [REDACTED], a social security card, and a [REDACTED] from 1993 record the woman in question's name as [REDACTED] There has been no explanation for these discrepancies. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). These discrepancies weaken the validity of the claim that [REDACTED] are the same person and fail to establish that the applicant's mother was a U.S. citizen.

Assuming that [REDACTED] are the same person and the applicant's mother is a U.S. citizen, the only objective, documentary evidence of the applicant's mother's physical presence in the United States are her baptismal certificate and birth certificate. The applicant submits affidavits from her mother's sister and her brother, as well as a statement of physical presence to establish that her 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 (BIA) 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 BIA 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 affidavits submitted by the applicant lack specificity, detail and credibility. Both affidavits include the same language and state that the applicant's mother lived in the United States for five years before the applicant was born. The affidavits contain no dates or other specific information regarding the applicant's mother's length of residence in the United States. Furthermore, the statement of physical presence, completed by the applicant in 2012, only indicates dates of physical presence in the United States after 1970. The law requires that the applicant establish that her mother resided in the United States continuously for at least one year prior to the applicant's birth in [REDACTED]

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. In sum, the applicant has not establish that her mother is a U.S. citizen nor has she established that it is more likely than not that her mother was physically present in the United States for a continuous period of one year prior to [REDACTED]

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.