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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

Date: FEB 06 2015

Office: LAS VEGAS, NV

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under former Section 301 of the Immigration and Nationality Act; 8 U.S.C. § 1401 (1970)

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,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Las Vegas, Nevada 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 in Mexico on October [REDACTED]. Her father, [REDACTED] was born in Arizona on August [REDACTED]. Her mother, [REDACTED] became a U.S. citizen on July [REDACTED] when the applicant was thirty-two years old. The applicant's parents were married in Mexico in [REDACTED]. The applicant seeks a certificate of citizenship claiming that she acquired U.S. citizenship at birth through her father.

The director denied the application upon finding that the applicant could not establish that her father was physically present in the United States for ten years prior to her birth as required by former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7)(1970). See *Director's Decision*, dated June 19, 2014.

On appeal, the applicant maintains that she has submitted sufficient evidence to establish that her father had been physically present in the United States for the statutorily required period of time. See Appeal Statement.

Applicable Law

We review these proceedings *de novo*. 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 (9th Cir. 2001) (internal citation omitted). The applicant in the present matter was born in 1970. Former section 301(a)(7) of the Act, 8 U.S.C. § 1401(a)(7), is applicable to her case and stated, in pertinent part, that the following shall be nationals and citizens of the United States at birth:

[A] person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of

the United States by such citizen parent may be included in computing the physical presence requirements of this paragraph.

Analysis

At issue in this case is whether the applicant can establish that her father was physically present in the United States for ten years prior to 1970, five years of which were after [REDACTED] (the applicant's father's 14th birthday).

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 (the Board) 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 Board 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 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 evidence in the record pertaining to the applicant's father's physical presence in the United States consists of the applicant's mother's affidavit, the results of a polygraph examination, and documents indicating that the applicant's father was employed in the United States between 1967 and 1969. The applicant's mother states, in relevant part, that the applicant's father was a farm worker and resided in the United States from the time they married in [REDACTED]. *See* Affidavit of [REDACTED]. The applicant's parents had nine children whose dates of birth range from [REDACTED]. *Id.* They were all born in Mexico. *Id.* The applicant's mother states that the applicant's father visited her frequently in Mexico. *Id.*

The applicant's mother affidavit is not corroborated by any documentary evidence except the records relating to the applicant's father's employment from 1967 to 1969. The applicant's mother states that she received and sent letters to the applicant's father in the United States, and that he worked in the United States and visited her regularly. *See* Affidavit of [REDACTED]. [REDACTED] She states that the applicant's father was present when their children were born. *Id.*

The applicant's mother, however, has only provided details of the applicant's father's whereabouts when he was in Mexico. She has not personally attested to the applicant's father's places of residence and employment while he was in the United States, and her recollection of his employment is inconsistent with documentary evidence in the record. For example, she states that the applicant's father was a migrant farm worker, but his 1969 pay stubs are issued by [REDACTED] and appear to indicate that he did not work in farming during that time.

The applicant maintains that her mother's polygraph corroborates her statements. *See* Appeal Statement at 7 (citing *Daubert v. Merrill Dow Pharmaceuticals Inc.*, 509 U.S. 579 (1993)). In federal court proceedings, evidence of the results of a polygraph test is inadmissible and may not be "introduced into evidence to establish the truth of the statements made during the examination." *United States v. Bowen*, 857 F.2d 1337, 1341 (9th Cir. 1988); *see also United States v. Frogge*, 476 F.2d 969 (5th Cir. 1973), *cert. denied*, 414 U.S. 849 (1974). In immigration proceedings, documentary evidence need not comport with the strict judicial rules of evidence. Although the Supreme Court and various circuit courts have noted that polygraph examination may be a useful tool to fact finders in some circumstances, none of these courts require that the results of polygraph examinations be accepted. The value of the polygraph is questionable for the same reasons that have led the federal courts to find them inadmissible. As previously mentioned, the results of a polygraph test may not be used to establish the veracity of the assertion tested.

The applicant's mother answered three questions during her polygraph examination: 1) whether the applicant's father visited her in Mexico; 2) whether the applicant's father was a farm worker; and; 3) whether the applicant's father's letters were destroyed in a fire. The applicant's mother answered in the affirmative to all three questions. The information provided does not contain probative details to corroborate the applicant's claim that her father resided in the United States for at least ten years prior to her birth in [REDACTED]. Without probative evidence to corroborate her mother's statements, we cannot find that the applicant has established by a preponderance of the evidence that her father was present in the United States for 10 years prior to [REDACTED].

Conclusion

It is the applicant's burden to establish eligibility for the immigration benefit sought. *See* Section 341(a) of the Act, 8 U.S.C. § 1452(a); 8 C.F.R. § 341.2(c). Here, that burden has not been met.

ORDER: The appeal is dismissed.