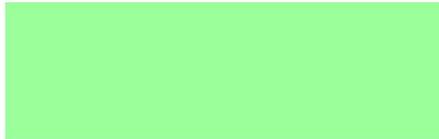




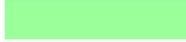
U.S. Citizenship  
and Immigration  
Services

(b)(6)

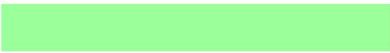


Date: FEB 09 2015

Office: HARLINGEN, TX

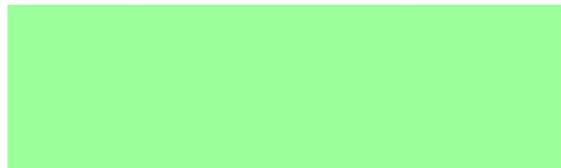
FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Certificate of Citizenship under former Section 301 of the Immigration and Nationality Act; 8 U.S.C. § 1401 (1957)

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,

  
Kon Rosenberg

Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Harlingen, Texas 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 [REDACTED]. His father, [REDACTED] was born in Texas on [REDACTED] 1931. His mother, [REDACTED] became a U.S. citizen after the applicant's eighteenth birthday. The applicant's parents were married in Mexico in 1952. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship at birth through his father.

The director denied the application upon finding that the applicant could not establish that his father was physically present in the United States for ten years prior to his birth as required by former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7)(1957). *See Director's Decision*, dated January 10, 2014.

On appeal, the applicant maintains that he has submitted sufficient evidence to establish that his 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 (9<sup>th</sup> Cir. 2001) (internal citation omitted). The applicant in the present matter was born in [REDACTED]. 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 his father was physically present in the United States for ten years prior to [REDACTED] five years of which were after 1945 (the applicant's father's 14<sup>th</sup> 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.)

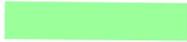
The evidence in the record pertaining to the applicant's father's physical presence in the United States consists of:

- 1) the applicant's father's delayed birth certificate and baptismal certificate;
- 2) the applicant's father's school records indicating that he attended school in Texas in 1938-39;
- 3) the applicant's father's selective service registration card, listing his registration date as October 1966;
- 4) the applicant's father's identity and registration cards;
- 5) an affidavit executed by the applicant's father indicating that he was present in the United States from birth until 1934, from sometime after July 1934 until 1939, and from 1947 until the present;
- 6) the applicant's father's Mexican birth certificate;

- 7) the applicant's paternal grandfather's death certificate;
- 8) the applicant's parents' marriage certificate;
- 9) the applicant's sibling's birth certificate, indicating that she was born in [REDACTED] in 1969;
- 10) the applicant's father's social security earnings statement;
- 11) the applicant's father's Mexican tourist visa application; and
- 12) a statement from Mr. [REDACTED], the applicant's father's co-worker, who claims to have met the applicant's father in 1947.

The preponderance of the evidence in the record does not establish that the applicant's father was present in the United States for 10 years prior to the applicant's birth in [REDACTED] five of which were after the applicant's father's fourteenth birthday in 1945. The record contains evidence relating to periods of physical presence after the applicant's birth, which is irrelevant to the applicant's eligibility. With respect to the applicant's father's presence in the United States prior to [REDACTED], the school records indicate that he was present in the United States from October 1938 to May 1939. The social security earnings statement indicates that the applicant's father earned \$834 and \$543 in 1953 and 1954, respectively, and no earnings were reported between 1955 and [REDACTED]. This document suggests that the applicant's father was present in the United States during 1953 and 1954, but does not establish that he was present for any particular length of time. The applicant's parents' marriage certificate indicates that they were married in Mexico in [REDACTED]. The applicant's father states that he lived in the United States from birth until 1934, from 1938 to 1939, and then after the age of 16. *See* Affidavit of [REDACTED]. He further states that he met and married the applicant's mother in Mexico and that they had 13 children, 12 of whom were born in Mexico. *Id.* The applicant's parents' marriage in Mexico in [REDACTED] and the birth of his 11 siblings suggest that his father was frequently present in Mexico during the relevant time period.

Mr. [REDACTED] statement indicates that he met the applicant's father in 1947, and that he was his supervisor at [REDACTED] from 1947 to 1956. *See* Statement of [REDACTED]. There is no probative evidence to corroborate the applicant's father's work history, except the income earned in 1953 and 1954. The information provided by Mr. [REDACTED] partially contradicts the applicant's father's statement. The applicant's father states that he worked "in the fields" upon his return to the United States in 1947, but then worked "in Chicago, in Houston, in Missouri, in Ohio, in Idaho . . . as a painter, sometimes as welder." *See* Affidavit of [REDACTED]. Mr. [REDACTED] vague statement, on the other hand, suggests that the applicant's father worked with him in Texas during the same time period that the applicant's father claims to have worked in Illinois and Missouri. Without probative evidence to corroborate the claim that the applicant's father was present in the United States for 10 years prior to [REDACTED] five of which were after 1945, we cannot find that the applicant has established by a preponderance of the evidence his eligibility for a certificate of citizenship.



*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 as to his eligibility for a certificate of citizenship.

**ORDER:** The appeal is dismissed. The application remains denied.