



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[Redacted]

Date: **MAR 20 2015** Office: SAN DIEGO, CA

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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:

[Redacted]

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 San Diego, 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 out of wedlock in Mexico on [REDACTED]. The applicant's mother, [REDACTED] was born in Mexico but acquired U.S. citizenship at birth through her U.S. citizen parent. The applicant seeks a certificate of citizenship indicating that he acquired U.S. citizenship at birth through his mother.

The 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 he could not establish that his mother was physically present in the United States for a continuous period of one year prior to the applicant's birth. *See Director's Decision*, dated May 7, 2014.

On appeal, the applicant maintains that the director did not properly consider the evidence presented and erred in refusing to allow additional testimony. *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 "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]. Therefore, 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 in the United States or one of its outlying possessions for a continuous period of one year.

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).

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 petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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.)

#### *Analysis*

The evidence submitted by the applicant lack specificity, detail, and credibility, and is inconsistent with other documentation of record. For example, the applicant’s mother states in a 2014 declaration that she is “100% certain” she began living with the applicant’s father in [REDACTED] California between December 24 and 31, 1977. However, the applicant’s father states in a 2012 declaration that, while he was living in the United States since 1976, the applicant’s mother began living with him in June 1978. In an affidavit dated two years later, he asserts she began living with him in the United States in December 1977. In addition, the mother’s claims regarding her 1977 residence in [REDACTED] California, are not consistent with her statements on her N-600, dated January 25, 1980, wherein she indicates she was residing in [REDACTED] California, with her father. We also note that the applicant’s birth certificate does not reflect that his mother was living in California at all at the time of his birth, but rather, at an address in [REDACTED] Mexico.

In conclusion, the record does not contain probative, consistent evidence to establish that the applicant’s mother’s was physically present in the United States for a continuous period of one year prior to the applicant’s birth on [REDACTED]. Therefore, we cannot find that the applicant has met his burden of proof on this matter.

(b)(6)

*NON-PRECEDENT DECISION*

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*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.