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**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-P-S-

DATE: SEPT. 8, 2015

APPEAL OF SAN FRANCISCO, CALIFORNIA FIELD OFFICE DECISION

APPLICATION: N-600, APPLICATION FOR CERTIFICATE OF CITIZENSHIP

The Applicant, a native and citizen of the Philippines, seeks a Certificate of Citizenship. *See* the Nationality Act of 1940 (the 1940 Act), § 201(e), 8 U.S.C. § 601(e). The Field Office Director, San Francisco, California, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The record reflects that the Applicant was born in the Philippines on [REDACTED] 1946. The Applicant's father was a U.S. citizen who served in the U.S. Army. The Applicant's mother was not a U.S. citizen. The Applicant seeks a certificate of citizenship pursuant to section 201(e) of the 1940 Act based on the claim that she acquired U.S. citizenship at birth through her father.

The Director found that the Applicant did not establish that her parents were married at the time of her birth, and also found she did not establish that her U.S. citizen father legitimated her prior to her eighteenth birthday, as required by statute. The Director denied the Form N-600, Application for Certificate of Citizenship, accordingly. *See Decision of the Field Office Director*, October 16, 2014.

On appeal, the Applicant contends that the Director did not give proper weight to the evidence presented and the totality of circumstances in denying the Form N-600. The Applicant instead claims she established that her parents were married by a preponderance of the evidence, thus demonstrating that she acquired U.S. citizenship at birth through her father.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering a decision on the appeal.

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. *Chau v. INS*, 247 F.3d 1026, 1028 n.3 (9th Cir. 2001). The Applicant in this case was born on [REDACTED] 1946, in the Philippines, which at that time was regarded as an outlying possession of the United States. Therefore, statutes applicable to this case are sections 201(e) and 205 of the 1940 Act.

Section 201(e) of the 1940 Act, in effect at the time of the Applicant's birth in 1946, states that the following shall be nationals and citizens of the United States at birth:

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A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person;

Section 205 states:

The provisions of section 201, subsections (c), (d), (e), and (g), and subsection 204, subsections (a) and (b), hereof apply as the of the date of birth, to a child born out of wedlock, provided the paternity is established during minority, by legitimation, or adjudication of a competent court.

As such, section 201(e) of the 1940 Act requires that the Applicant establish that her parents were married prior to her birth; failure to establish that her parents were married results in a finding that the Applicant was born out of wedlock, and subject to the provisions of section 205 of the 1940 Act requiring that the Applicant be legitimated prior to her eighteenth birthday.

The record indicates that the Applicant's father was a U.S. citizen who served in the U.S. Army during World War II from [REDACTED] 1943 to [REDACTED] 1945.

In regard to the paternity of the Applicant, the evidence indicates that [REDACTED] is her father. The record includes, among additional evidence, a copy of the Applicant's marriage certificate, dated [REDACTED] 1968, which shows the Applicant having the same surname as her father, and a letter to the Applicant from her father, dated December 3, 1964, in which he states: "Received your letter and was surprised to know I have a daughter." Furthermore, although the Applicant's birth certificate was registered by the Applicant herself, and registered late, in 2002, we view the information it contains on the Applicant's father in light of the other evidence of record. As there is no evidence of record indicating otherwise, we find that [REDACTED] is the Applicant's father, as the Applicant claims.

Similarly, in regard to the citizenship of the Applicant's father, we affirm that the evidence indicates that he was a citizen of the United States. A certificate of Discharge from Civilian Conservation Corps, dated [REDACTED] 1936 indicates that the Applicant's father "was born in 'Shipboard' in the state of 'Within Jurisdiction'." A document dated February 18, 1937, U.S. Social Security Act, Application for Account Number, indicates that the Applicant's father place of birth as "on board ship within jurisdiction of the U.S." The Enlisted Record and Report of Separation, Honorable Discharge, from the U.S. Army, (WD AGO Form 53-55) for the Applicant's father lists his place of birth as "[REDACTED] NY." However, the death certificate for the Applicant's father, dated [REDACTED] 2002, under item 15, lists his "STATE OF BIRTH (Country if not in U.S.)" as "Poland."¹ Although there are discrepancies regarding the specific place of birth, when viewed as a whole, the majority of the evidence indicates that the Applicant's father was born in the United States. We therefore affirm that the Applicant's father was a U.S. citizen.

¹ We note that information on the Applicant's father's death certificate was provided by the nursing home where he resided, and not a family member. As such, the information source may not have had complete knowledge of the father's biographic information.

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The record further indicates that the Applicant's father resided in the United States prior to the birth of the Applicant. The record includes evidence that the Applicant's father served with the Illinois National Guard from [REDACTED] 1929 until he was honorably discharged on [REDACTED] 1935. In addition, he was a member of the Civilian Conservation Corps at [REDACTED] in Michigan from [REDACTED] 1935 to [REDACTED], 1936, and again from [REDACTED] 1936 to [REDACTED] 1936.

In order for the Applicant to establish that she acquired U.S. citizenship from her father, the Applicant must demonstrate that she is the legitimate child of her U.S. citizen father, or that she was legitimated by her father prior to her eighteenth birthday, in accordance with section 205 of the 1940 Act.

The Applicant does not assert, nor does the record demonstrate, that her father legitimated her prior to her eighteenth birthday. The letter from the Applicant's father, dated December 3, 1964, indicates that at the time of writing that letter, he first became aware that the Applicant was his daughter. The Applicant, born on [REDACTED] 1946, was already over the age of eighteen at the time her father wrote this letter, which demonstrates that no steps had been taken to legitimate her prior to her eighteenth birthday.

Thus, the Applicant can only acquire U.S. citizenship through her father by showing that her parents were married.

The Applicant claims that her father married her mother on [REDACTED], 1944 at [REDACTED] Philippines. In support of this claim, the Applicant submits a sworn affidavit of two witnesses attesting to their personal knowledge of the Applicant's parents on [REDACTED] 1944. The Director stated that although the Applicant questioned the information that U.S. Citizenship and Immigration Services (USCIS) used to show that such a marriage was unlikely, the Applicant did not provide any evidence to show that her father could have been in [REDACTED] The Philippines, on the claimed marriage date.

The record indicates that on June 19, 2014, the Director issued a Notice of Intent to Deny (NOID) the Form N-600 application, stating that the reliability of the sworn affidavit of the two witnesses regarding the marriage of the Applicant's parents was undermined by the apparent unlikelihood of the claimed marriage date. The NOID references publicly available information on the Internet, citing a Wikipedia article, and a website for the [REDACTED] Infantry Regiment.

On appeal, the Applicant notes that Wikipedia is a free encyclopedia that anyone can edit, regardless of credibility or authenticity, and therefore is not a reliable source. With respect to the website for the [REDACTED] Infantry Regiment, the Applicant notes that this is an unofficial website that focuses on Company G of the [REDACTED] Infantry Regiment, further noting that the Applicant's father was not in Company G. In addition, the creators of the website state that the narrative is "incomplete."

While we agree with the Applicant that the sources cited by the Director in the NOID are not reliable, we concur with the Director that the Applicant did not provide sufficient evidence to show that a U.S. serviceman could have been in [REDACTED], the Philippines, on the claimed marriage date. With the June 19, 2014 NOID, the Field Office Director provided the Applicant with an opportunity to

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provide evidence that a U.S. Serviceman could have been present on the island of [REDACTED] in the Philippines in [REDACTED] 1944; however, the Applicant has not provided such evidence to the record.

The record contains a statement from the Office of the Civil Registrar, [REDACTED] the Philippines, dated January 22, 2002, which certifies that the records of marriages filed in the office include those which were registered from 1903 to the present, but that the records during the period of 1941 to 1945 were destroyed during World War II. The statement also certified that for every registered marriage, the office submits a copy of the certificate of marriage to the Office of the Civil Registrar General, National Statistics Office in Manila, the Philippines. The record further includes a statement from the Civil Registrar General of the National Statistics Office, dated March 19, 2013, stating that they do not have a record of the marriage of the Applicant's parents. Although the Office of the Civil Registrar in [REDACTED] certified that a copy of every registered marriage was submitted to the Office of the Civil Registrar General, the Office of the Civil Registrar General stated that it does not have any record of the marriage of the Applicant's parents. The Applicant does not provide any explanation for why neither office would have documentation of the marriage in the record.

The Applicant notes that on her father's Enlisted Record and Report of Separation, Honorable Discharge, from the U.S. Army, (WD AGO Form 53-55), Item 19, Marital Status indicates that he was married. The Applicant contends that this is evidence that the Applicant's father was married to her mother. However, there is nothing in the record to support this contention. The Applicant's father was 31 years old at the time he enlisted into the U.S. Army in 1943, and could have been already married at the time of his enlistment. We note that the death certificate for the Applicant's father, dated [REDACTED] 2002 lists his marital status as "divorced," but there is no indication here that the divorce is in reference to the Applicant's mother. In addition, the December 3, 1964 letter from the Applicant's father to the Applicant refers to the Applicant's mother as "your mother," and not his wife.

With respect to claims to U.S. citizenship, the Applicant bears the burden of proof to establish the claimed citizenship by a preponderance of the evidence. Even if USCIS has some doubt as to the truth, if the Applicant submits relevant, probative, and credible evidence that leads the agency to believe that the claim is "probably true" or "more likely than not," the Applicant has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If USCIS can articulate a material doubt that leads it to believe that the claim is probably not true, then USCIS may deny the application. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). In this particular case, the Applicant did not provide an explanation for why the Civil Registrar and National Statistics Office records indicate there was no recorded marriage, nor has the Applicant provided documentation to support the assertions made in the affidavit that her father was present in [REDACTED] the Philippines, on the date of the claimed marriage. Therefore, the Applicant did not establish that her father married her mother in [REDACTED] 1944, nor did she establish that she is the legitimated child of her U.S. citizen father, as required by statute.

It is the Applicant's burden to establish the claimed citizenship by a preponderance of the evidence. 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.

Cite as *Matter of J-P-S*, ID# 12861 (AAO Sept. 8, 2015)