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

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

MATTER OF L-C-H-G-

DATE: AUG. 18, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM N-600, APPLICATION FOR CERTIFICATE OF CITIZENSHIP

The Applicant, a native of Honduras, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) section 301(g), 8 U.S.C. § 1401(g), section 309(a), 8 U.S.C. § 1409(a), (*amended by* Act of November 14, 1986, Pub. L. No. 99-653, 100 Stat. 3655). An individual born outside the United States who acquired U.S. citizenship at birth, or who automatically derived U.S. citizenship after birth but before the age of 18, may apply to receive a Certificate of Citizenship. For an individual claiming to be a U.S. citizen at birth, who was born to unmarried parents between December 24, 1952, and November 14, 1986, and is claiming citizenship through a U.S. citizen father, the father must have been physically present in the United States for 10 years (with at least 5 years occurring after the age of 14) before the individual's birth and the individual must also satisfy legitimation requirements.¹

The District Director, New York, New York, denied the application on the grounds that the Applicant did not demonstrate that her U.S. citizen father was physically present in the United States for 10 years prior to the Applicant's birth in [REDACTED] at least 5 years of which were after her father turned 14, in [REDACTED].

We dismissed the matter on appeal. We determined that the time that the Applicant's father spent as a seaman on foreign or coastwise voyages did not constitute physical presence in the United States, and that the Applicant's father's Coast Guard certificates of discharge and the other evidence in the record was insufficient to demonstrate that he was physically present in the country for 10 years prior to the Applicant's birth. The Applicant therefore did not demonstrate that she acquired citizenship from her father under former section 301(g) of the Act.²

¹ The Applicant's legitimation by her father was not at issue in this case, as there are no longer legal distinctions between legitimate and illegitimate children in Honduras, and the Applicant's birth certificate reflects that her father recognized her as his child in 1982. *See Matter of Sanchez*, 16 I&N Dec. 671 (BIA 1979).

² We also determined that the Applicant did not demonstrate that she derived citizenship through her father under section 322 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000). The Applicant was over the age of 18 when section 322 of the Act took effect, and she did not meet requirements that and that her application be filed and approved, and an oath of allegiance taken prior to her 18th birthday.

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The Applicant has filed a motion to reconsider our decision. In her motion, the Applicant indicates that we did not properly review the evidence or correctly calculate the time periods that her father was in the United States. She submits a document chronicling the number of days that her father spent on voyages outside of the United States versus the number of days that she claims he spent in the United States, and she asserts that the record demonstrates, by a preponderance of the evidence, that her father met the U.S. physical presence requirements contained in the former Act.

The motion to reconsider will be denied.

I. LAW

The Applicant was born on [REDACTED] to unmarried parents, a U.S. citizen father and a Honduran citizen mother. Her acquisition of citizenship at birth claim therefore falls within the provisions of former section 301(g) of the Act, which provided that:

[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.

Because the Applicant was born abroad, she is presumed to be a foreign national 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 her 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)).

II. ANALYSIS

The issue in this case is whether our finding, that the Applicant’s father did not meet the United States physical presence requirements set forth in former section 301(g) of the Act, was in error. In her motion to reconsider, the Applicant submits a document chronicling the number of days her father spent as a seaman on foreign or coastwise voyages. She claims that her father was present in the United States when he was not at sea, and she contends that the record therefore establishes that her father met the United States physical presence requirements set forth in former section 301(g) of the Act. The record contains previously submitted Coast Guard certificates of discharge for the Applicant’s father, reflecting when he departed from United States ports on foreign or coastwise voyages, and when he returned to United States ports. The record also includes previously submitted social security earnings statements for the Applicant’s father, evidence of his union

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membership, and affidavits from two of her father's friends. The entire record has been reviewed and considered. Upon review, the Applicant has not shown that we erroneously found she did not establish that her father was physically present in the United States for 10 years prior to her birth in [REDACTED] at least 5 years of which were after her father turned 14, in [REDACTED]. We shall therefore affirm our appeal decision.

Social security earnings statements and Coast Guard certificates of discharge reflect that the Applicant's father earned income in the United States, and that he departed and arrived at United States ports between 1951 and 1980. Specifically, this evidence reflects the following during the noted time periods:³

A. Between 1951 and 1962

Income in the United States:

1951: \$637.36
1952: \$1390.29
1953: \$28.24
1954: \$1288.83
1955: \$462.51
1956: \$180.82
1957: \$93.59
1958: None
1959: \$151.00
1960: \$4389.16
1961: \$5478.22
1962: \$4021.07

Seaman voyage travel dates:

Departure Port and Date

[REDACTED] VA - November 12, 1951
[REDACTED] VA - February 26, 1952
[REDACTED] LA - December 1, 1959
[REDACTED] LA - February 23, 1960
[REDACTED] LA - July 14, 1960
[REDACTED] LA - December 1, 1959
[REDACTED] LA - February 23, 1960
[REDACTED] LA - July 14, 1960

Arrival Port and Date

Illegible - February 5, 1952
[REDACTED] NY - April 10, 1952
[REDACTED] TX - February 5, 1960
[REDACTED] LA - June 7, 1960
[REDACTED] LA - October 20, 1960
[REDACTED] TX - February 5, 1960
[REDACTED] LA - June 7, 1960
[REDACTED] LA - October 20, 1960

³ Some of the arrival and departure time frames listed include periods in which the Applicant's father arrived in United States at an unknown time on one day, and departed the country at an unknown time the following day.

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LA – January 14, 1961
LA – August 8, 1961
LA – February 7, 1962
LA – June 26, 1962
LA – October 13, 1962

TX – July 4, 1961
PA – December 22, 1961
TX – May 22, 1962
LA – September 27, 1962
LA – February 4, 1963

This evidence, on its own, does not demonstrate when or how long the Applicant's father was physically present in the United States between 1951 and 1962. The record contains no seaman voyage departure or arrival evidence for the time period between April 1952 and November 1959. In addition, the earnings statements do not reflect a consistent or steady income between 1951 and 1962, and do not specify dates that the Applicant's father worked or was present in the United States during each year.

In addition, evidence reflecting that the Applicant's father was a dues paying member of the [redacted] between August 1957 and April 1985 does not contain residence information for the Applicant's father, and does not specify locations or periods of time when he was physically present in the United States between 1957 and 1962. The record lacks documentary evidence, such as apartment lease, utility bill, medical treatment receipts, or other independent evidence to establish when, and for how long the Applicant's father was physically present in the United States between 1951 and 1962. Affidavits from the Applicant's father's friends also do not address his U.S. physical presence during this time period.

Upon review, we find that at best, this evidence establishes that the Applicant's father was physically present in the United States for up to 3 ½ months (109 days) between 1951 and 1962 (up to 21 days in February 1952, up to 53 days between February and July 1960, and up to 35 days between July and August 1961.)

B. Between 1963 and 1972

Income in the United States:

1963: \$4774.72
1964: \$5168.86
1965: \$6340.98
1966: \$5841.76
1967: \$5613.62
1968: \$5452.52
1969: \$6636.55
1970: \$7771.46
1971: \$7484.72
1972: \$7488.71

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Seaman voyage travel dates:

Departure Port and Date	Arrival Port and Date
[REDACTED] LA – May 15, 1963	[REDACTED] LA – September 12, 1963
[REDACTED] LA – November 8, 1963	[REDACTED] TX – March 5, 1964
[REDACTED] LA – May 12, 1964	[REDACTED] LA – January 14, 1965
[REDACTED] LA – May 13, 1965	[REDACTED] TX – February 11, 1966
[REDACTED] LA – May 9, 1966	[REDACTED] LA – September 2, 1966
[REDACTED] LA – November 16, 1966	[REDACTED] TX – June 20, 1967
[REDACTED] LA – October 26, 1967	[REDACTED] AL – February 2, 1968
[REDACTED] LA – March 12, 1968	[REDACTED] NY – July 3, 1968
[REDACTED] LA – October 26, 1967	[REDACTED] AL – February 2, 1968
[REDACTED] LA – March 12, 1968	[REDACTED] NY – July 3, 1968
[REDACTED] LA – November 13, 1968	[REDACTED] AL – February 18, 1969
[REDACTED] AL – March 4, 1969	[REDACTED] LA – March 8, 1969
[REDACTED] LA – March 21, 1969	[REDACTED] LA – April 2, 1969
[REDACTED] LA – April 30, 1969	[REDACTED] LA – September 9, 1969
[REDACTED] LA – October 6, 1969	[REDACTED] TX – January 5, 1970
[REDACTED] LA – May 7, 1970	[REDACTED] TX – May 11, 1970
[REDACTED] LA – May 22, 1970	[REDACTED] LA – August 27, 1970
[REDACTED] LA – November 5, 1970	[REDACTED] LA – July 16, 1971
[REDACTED] LA – March 3, 1972	[REDACTED] TX – May 21, 1972
[REDACTED] TX – June 12, 1972	[REDACTED] LA – August 25, 1972
[REDACTED] LA – October 26, 1972	[REDACTED] LA – November 3, 1972

Similar to the discussion above, the evidence does not demonstrate that the Applicant's father was physically present in the United States when he returned from his voyages between 1963 and 1972. The earnings statements do not reflect a consistent income, and they do not specify where the Applicant's father earned his income or how long he was present in the United States during the years that he earned an income.

The affidavits from the Applicant's father's friends also do not demonstrate where and when the Applicant's father was physically present in the United States. One friend states simply that he met the Applicant's father many years ago, that they maintained a good friendship for many years, and that the Applicant's father lived in [REDACTED] where he worked as a sailor between 1970 and 1980. A second friend states only that he met the Applicant's father in 1964, that they were good friends, and that they spoke on the phone whenever the Applicant's father was in [REDACTED] between 1969 and 1980. The affidavits are general and do not specify where the Applicant's father lived or exact dates when he was in the [REDACTED]. They also lack details about interactions between the affiants and the Applicant's father and about their source of knowledge of the Applicant's father's presence in the United States. As stated previously, the evidence reflecting that the Applicant's father was a dues paying member of the [REDACTED]

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between August 1957 and April 1985 also does not specify locations or periods of time when the Applicant's father was physically present in the United States between 1963 and 1972, and the record lacks independent documentary evidence to establish when, and for how long the Applicant's father was physically present in the United States during that time period. At best we find, upon review, that the evidence establishes that the Applicant's father was physically present in the United States for a little over a year (383 days) between 1963 and 1972 (up to 57 days between September and November 1963, up to 119 days between January and May 1965, up to 75 days between September and November 1966, up to 39 days between February and March 1968, up to 82 days between February and October 1969, and up to 11 days between May 1970 and March 1972.)

C. Between 1973 and 1980

Income in the United States:

1973: \$6379.23
1974: \$9687.84
1975: \$5729.37
1976: \$7894.61
1977: \$12318.58
1978: \$18793.01
1979: \$11385.00
1980: \$16589.52

Seaman voyage travel dates:

Departure Port and Date

Arrival Port and Date

[REDACTED] LA - April 5, 1973
[REDACTED] LA - April 19, 1973
FL - September 14, 1973
[REDACTED] LA - July 26, 1974
AL - August 29, 1974
[REDACTED] LA - December 23, 1975
[REDACTED] LA - April 23, 1976
[REDACTED] LA - November 22, 1976
[REDACTED] LA - April 19, 1977
TX - September 19, 1977
[REDACTED] LA - July 5, 1978
TX - September 25, 1978
[REDACTED] LA - February 20, 1979
[REDACTED] LA - December 19, 1979

[REDACTED] LA - April 10, 1973
[REDACTED] LA - July 5, 1975
TX - March 13, 1974
[REDACTED] LA - August 2, 1974
TX - December 12, 1974
TX - March 14, 1976
[REDACTED] LA - June 22, 1976
[REDACTED] LA - February 15, 1977
TX - July 22, 1977
[REDACTED] LA - January 5, 1978
TX - September 13, 1978
[REDACTED] LA - December 19, 1978
[REDACTED] LA - May 18, 1979
[REDACTED] LA - April 7, 1980

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This evidence also does not reflect when or how long the Applicant's father was physically present in the United States between 1973 and 1980. As discussed above, the earnings statement evidence does not reflect that the Applicant's father earned a consistent income, and the earnings statements and union dues evidence does not specify when, or for how long the Applicant's father was present in the United States between 1973 and 1980. The affidavits from the Applicant's father's friends also do not specify where and when the Applicant's father lived in the United States, and they lack details about interactions between the affiants and the Applicant's father and about their source of knowledge of the Applicant's father's presence in the United States.

The record lacks independent documentary evidence to establish when, and for how long the Applicant's father was physically present in the United States between 1973 and 1980. In addition, Social Security Administration, Retirement, Survivors, and Disability Insurance evidence contained in the record reflects the possibility that the Applicant's father lived in Honduras in the 1970's and early 1980's, in that it shows that the Applicant's father had 6 children entitled to survivors benefits, all of whom were born in Honduras between [REDACTED] and [REDACTED]. We find that at best, the Applicant established that her father was physically present in the United States for a little over a year (358 days) between 1973 and 1980 (up to 84 days between May and October 1972, up to 9 days in April 1973, up to 27 days in August 1974, up to 41 days in the United States between March and April 1976, up to 122 days between February 1977 and September 1978, and up to 75 days between September 1978 and February 1979.)

D. Our appeal decision

Upon review, we find that the Applicant has not demonstrated that our appeal finding (that the evidence in the record is insufficient to establish that the Applicant's father was physically present in the United States for 10 years prior to her birth, as required under former section 301(g) of the Act) was erroneous.

The Applicant contends in her motion to reconsider that all time periods that occurred between her father's sea voyages should be considered as time that he was physically present in the United States; however, the evidence in the record establishes that at best, the Applicant's father was physically present in the United for up to three years prior to the Applicant's birth. The Applicant's father's social security earnings evidence, as well as evidence that he was a dues paying member of the [REDACTED] is insufficient to establish the Applicant's father's presence in the United States during the unaccounted for time periods between voyages, as the evidence does not reflect a consistent or steady income; does not contain the exact dates that the Applicant's father worked in the United States; and does not reflect whether the Applicant's father lived in the United States, or when, where, and for how long. The affidavits from the Applicant's father's friends also do not specify where and when the Applicant's father was in the United States, and they lack details demonstrating personal knowledge of the Applicant's father's presence in the United States. The record contains no independent documentary evidence demonstrating that the Applicant's father rented or owned a home in the United States prior to the Applicant's birth, or that he paid bills or taxes, or was involved in any other activities in the United States. In addition, social

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security survivors benefit evidence reflects that the Applicant's father had six children born in Honduras between [REDACTED] and [REDACTED] raising the conflicting possibility that he lived in Honduras during the unaccounted time periods between his voyages.

III. CONCLUSION

In view of the above, the Applicant has not demonstrated that our decision on appeal was in error, or that she acquired U.S. citizenship at birth through her U.S. citizen father pursuant to former section 301(g) of the Act.

ORDER: The motion to reconsider is denied.

Cite as *Matter of L-C-H-G-*, ID# 17723 (AAO Aug. 18, 2016)