



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

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

MATTER OF S-K-V-G-

DATE: AUG. 22, 2016

APPEAL OF TAMPA, FLORIDA FIELD OFFICE DECISION

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

The Applicant, a native and citizen of Guatemala, seeks a Certificate of Citizenship. *See* Immigration and Nationality Act (the Act) section 301(a)(7), 8 U.S.C. § 1401(a)(7), *amended by* Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046. 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, and who was born to married parents between December 24, 1952, and November 14, 1986, one parent must be a U.S. citizen parent, and that parent 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.

The Field Office Director, Tampa, Florida, denied the application. The Director concluded that the Applicant provided insufficient evidence to demonstrate that her U.S. citizen father satisfied the physical presence requirements set forth in former section 301(a)(7) of the Act, prior to the Applicant's birth.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and claims that the evidence in the record demonstrates that her father met U.S. physical presence requirements contained in the Act, and that the Director erred in denying her Form N-600, Application for Certificate of Citizenship:

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The record reflects that the Applicant was born in Guatemala on [REDACTED] to married parents, a U.S. citizen father, and a Guatemalan citizen mother. The Applicant seeks a Certificate of Citizenship indicating that she acquired U.S. citizenship at birth from her father.

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, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted).

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The Applicant was born on [REDACTED] to married parents, one of whom was a U.S. citizen and the other a foreign national. Accordingly, the Applicant's citizenship claim falls within the provisions of former section 301(a)(7) of the Act, which provided:

[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.

In 1966, the former section 301(a)(7) of the Act provision pertaining to service in the Armed Forces of the United States was amended by the Act of November 6, 1966, Pub. L. No. 89-770, 80 Stat. 1322, to read

[t]hat any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act, may be included in order to satisfy the physical presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date.

22 U.S.C. § 288, states, in pertinent part, that:

For the purposes of this subchapter, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities provided in this subchapter.

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II. ANALYSIS

The issue in this case is whether the Applicant has demonstrated that her father was physically present in the United States for 10 years prior to the Applicant's birth, at least 5 years of which occurred after he turned 14. On appeal, the Applicant claims that evidence in the record establishes her father satisfied the physical presence requirements contained in the former Act. Specifically, she asserts that her father's residence in Guatemala, as her paternal grandfather's dependent, constituted U.S. physical presence because her grandfather worked for the [REDACTED] in conjunction with the [REDACTED] and the company was either part of the U.S. Government or an international organization. The Applicant states that evidence in the record demonstrates that her father was also physically present in the United States for the time period required under former section 301(a)(7) of the Act. The record includes: statements; email and photograph evidence; academic transcripts; rent receipts; passport and marriage certificate documentation; information relating to the Applicant's paternal grandfather's physical presence and employment; and excerpts from the Department of State, Foreign Affairs Manual (FAM). The entire record has been reviewed and considered. Upon review, we find that the Applicant did not establish that her father met former section 301(a)(7) of the Act physical presence requirements prior to her birth.

As stated above, to establish acquisition of U.S. citizenship at birth, the Applicant must show that her father was a U.S. citizen who was physically present in the United States for at least 10 years before the Applicant's birth in [REDACTED] at least 5 years of which were after the father's 14th birthday in [REDACTED].

A. Residence in Guatemala as U.S. physical presence

The Applicant asserts that her paternal grandfather was employed in Guatemala by the [REDACTED] under the direction of the [REDACTED]. She claims that the [REDACTED] qualified as a U.S. government or international organization employer, and that her father's residence in Guatemala as a minor with her paternal grandfather, therefore constituted U.S. physical presence for former section 301(a)(7) of the Act purposes.

The regulations at 8 C.F.R. § 316.20 (a) through (c) list the organizations that have been determined to be American institutions, public international organizations, or have been designated under the International Immunities Act. Although the record contains employment evidence demonstrating that the Applicant's paternal grandfather worked as a general manager for the [REDACTED] in Guatemala between 1938 and May 1942, and reflecting that the [REDACTED] was created in [REDACTED] by [REDACTED] in order to [REDACTED] and [REDACTED] production; in 1942 the United States signed an agreement with Guatemala granting the [REDACTED]

¹ The Applicant's father's U.S. citizenship is not at issue in this case; moreover, Department of State, Report of Birth, and U.S. passport evidence contained in the record demonstrates that the Applicant's father was a U.S. citizen at the time of the Applicant's birth.

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██████████ exclusive purchasing rights to all of Guatemala's export rubber; and that in May 1942, the ██████████ signed an agreement with ██████████ to procure and develop rubber production in Central America, the ██████████ is not contained on the list of international organizations as reflected in the regulation at 8 C.F.R. § 316.20(c). The Applicant has thus not established that her father was employed abroad by an international organization. In addition, whether or not the Applicant's paternal grandfather's employment with the ██████████ constituted employment for the U.S. government is not relevant to the issue of her father's physical presence in the United States, as the record contains no evidence of the grandfather's employment with the ██████████ after May 1942, and the Applicant's father was born in ██████████

B. Physical presence in the United States

To demonstrate that the Applicant's father was physically present in the United States for 10 years before the Applicant's birth in ██████████ at least 5 of which were after her father's 14th birthday in ██████████ the record includes statements from family friends and relatives; academic, email, and rent receipt evidence; photographs; and information relating to the Applicant's parents' marriage.

Three family friends indicate in separate statements that the Applicant's father told them he visited his paternal grandparents in the United States every year, that he studied in the United States for 4 - 5 years in the 1950s, and that he worked in the United States for 3 - 4 years in the early 1960s. All of the individuals live in Guatemala, however, and the statements do not reflect personal knowledge of the Applicant's father's physical presence in the United States.

The Applicant's father's sister-in-law adds, in a statement, that she went to the Applicant's father's wedding in Florida in ██████████ 1963, and that the Applicant's father and mother lived in ██████████ for a short time after their marriage before returning to Guatemala. The statements are general, however, and do not specify exact dates when the Applicant's father was in the United States, where he worked and when, or the exact addresses where he lived.

Statements made by another family friend indicate that the Applicant's father lived in ██████████ Florida from 1960 until about February 1964. The friend states that she lived in North Carolina during that time, and that the Applicant's father visited her in North Carolina around the end of 1962 and 1963. Nevertheless, the statements lack specific details about the date, duration, location and circumstances of the Applicant's father's visit to North Carolina, and they lack personal knowledge of his physical presence in Florida.

The Applicant claims that photograph evidence demonstrates that her father visited his family in the United States during his childhood; however, even assuming that the locations and identity of the individuals in the photographs could be determined, the photographs do not contain dates, and do not demonstrate when or how long the Applicant's father was physically present in the United States.

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The record also contains academic transcript and letter and email evidence reflecting that the Applicant's father attended [REDACTED] and lived in the State of Georgia between 1957 and May 1960. In addition, the record contains receipts reflecting \$35.00 monthly rent payments from the Applicant's father in April, June and October 1961; and in February and March 1962. The Applicant's father's marriage certificate also reflects that the Applicant's father was married in [REDACTED] Florida in [REDACTED] 1963. The rent receipt dates are not consecutive and do not contain an address where the Applicant lived, and although the marriage certificate reflects that the Applicant's father married in Florida in [REDACTED] 1963, the certificate contains no other information demonstrating his father's U.S. physical presence before or after the marriage. In addition, even if this evidence were accepted as establishing continuous physical presence between 1957 and 1963, it would at best establish 7 years of physical presence prior to the Applicant's birth in [REDACTED]

Upon review, the Applicant has provided insufficient evidence to establish that her father was physically present in the United States for 10 years prior to her birth, at least 5 years after he turned 14. The evidence did not demonstrate that her father's residence in Guatemala qualified as U.S. physical presence for former section 301(a)(7) of the Act purposes, and affidavit and photograph evidence is insufficient to establish the Applicant's father's required physical presence in the United States. At best, school-related evidence, rent receipts, and marriage certificate documentation establish that the Applicant's father was physically present in the United States for up to 7 years before the Applicant's birth.

III. CONCLUSION

In view of the above, the Applicant has not demonstrated that her father was physically present in the United States for 10 years, at least 5 years of which were after the age of 14. Accordingly, the Applicant has not established that she acquired U.S. citizenship at birth through her U.S. citizen father pursuant to former section 301(a)(7) of the Act.

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). The Applicant has not met that burden. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of S-K-V-G-*, ID# 16757 (AAO Aug. 22, 2016)