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

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

MATTER OF R-E-D-

DATE: DEC. 23, 2016

APPEAL OF MIAMI, FLORIDA FIELD OFFICE DECISION

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

The Applicant, a native and citizen of Mexico, 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, 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, Miami, Florida, denied the application, concluding that the Applicant did not submit sufficient evidence to demonstrate his U.S. citizen mother was physically present in the United States for the requisite period of time before the Applicant's birth.

The matter is now before us on appeal. On appeal, the Applicant submits additional evidence and asserts this new documentation proves his mother was physically present in the United States for over 10 years before he was born.

Upon *de novo* review, we will sustain the appeal. The evidence, supplemented on appeal, is sufficient to demonstrate his mother's physical presence in the United States required under former section 301(a)(7) of the Act.

I. LAW

The record reflects that the Applicant was born in Mexico on [REDACTED] in Mexico to married parents. The Applicant's mother was born in the United States, and was therefore a U.S. citizen.¹

¹ The mother's nationality on the Applicant's Mexican birth certificate was recorded as "Mexican." This appears to be a result of a clerical error, as the mother's [REDACTED] Mexican death certificate identifies her as a national of the United States. There is nothing in the record to suggest the mother lost her U.S. citizenship before the Applicant's birth.

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His father was a citizen of Mexico. The Applicant seeks a Certificate of Citizenship indicating that he acquired U.S. citizenship at birth from his mother pursuant to former section 301(a)(7) of the Act.

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).

The Applicant was born abroad 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 was in effect at the time of his birth in [REDACTED] and which provided that the following shall be 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.

II. ANALYSIS

The birth certificate of the Applicant's mother shows she was born the United States in [REDACTED] and was therefore a U.S. citizen. The information on the Applicant's timely registered birth certificate establishes the parent-child relationship between him and his mother. Accordingly, the only issue to be decided in these proceedings is whether the Applicant has established that his mother was physically present in the United States for at least 10 years before the Applicant's birth in [REDACTED] and that 5 of those years were after the mother's 14th birthday in [REDACTED].

The Applicant represented on the Form N-600, Application for Certificate of Citizenship, that his mother was present in the United States from her birth in [REDACTED] until late 1965. In response to the Director's request for evidence (RFE) to support this representation, the Applicant submitted a copy of the mother's U.S. birth certificate, her college transcript for the academic year 1949-50, and a letter confirming she was enrolled in a university in the United States from the fall of 1954 until her graduation in the spring of 1956. The Director determined this documentation was insufficient to demonstrate the Applicant's mother was physically present in the United States for at least 10 years before the Applicant's birth in [REDACTED].

On appeal, the Applicant submits additional evidence of his mother's presence in the United States, which consists of the mother's high school, nursing, and secondary school records, and copies of

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local newspaper entries pertaining to his mother. The Applicant states this evidence shows his mother was physically present in the United States for the requisite time period.

We have reviewed the entire record of proceedings. Upon review, we find that the evidence submitted on appeal, when viewed with earlier submitted documentation, shows that his mother was present in the United States for 10 years before his birth in [REDACTED] and that 5 of those years were after the mother's 14th birthday in [REDACTED]

The mother's educational record shows she attended high school in New York for almost 4 years, from September 1945 until graduation in June 1949. Additional academic records show the mother was enrolled in a 3-year nursing program in New York from September 1950, until August 1953, and that from 1954 until 1956 years she attended a Catholic university in [REDACTED]. Moreover, the Applicant has submitted documents which demonstrate that between 1959 and 1960 the mother continued her education at a university in [REDACTED] and that she also completed a secondary school course in Pennsylvania in 1964. In addition, the local newspaper entries from 1956, 1957, 1959, 1960, and 1963, regarding the mother's social activities and her professional achievements indicate she resided in the state of New York in those years. Accordingly, these documents, when considered in the aggregate, tend to show the mother was physically present in the United States for a period of at least 10 years, including 5 years following her 14th birthday.

Accordingly, we find the Applicant has demonstrated he meets all of the requirements of former section 301(a)(7) of the Act to establish that he acquired U.S. citizenship at birth from his mother.

III. CONCLUSION

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 met that burden because he has demonstrated that his mother was physically present in the United States for the requisite period of time before his birth. Accordingly, the Applicant has established he acquired U.S. citizenship at birth from his U.S. citizen mother pursuant to former section 301(a)(7) of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of R-E-D-*, ID# 35531 (AAO Dec. 23, 2016)