



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

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

MATTER OF E-E-

DATE: JAN. 4, 2016

APPEAL OF FERNANDO VALLEY 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) § 301, 8 U.S.C. § 1401 (1961) (amended by Pub. L. No. 95-432, 92 Stat. 1046 (1978)). The Director, Fernando Valley Field Office, 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 Mexico on [REDACTED]. The Applicant's mother is not a U.S. citizen and her father naturalized on March 29, 2000. The Applicant's parents were married in Mexico on [REDACTED] 1965. The Applicant seeks a certificate of citizenship based on the acquisition of U.S. citizenship at birth through her father.

The Director denied the Applicant's citizenship claim upon finding that she had not established her eligibility under section 321(a) of the Act, as she did not demonstrate that both her parents are citizens of the United States and that she is residing in the United States pursuant to a lawful admission for permanent residence.

On appeal, the Applicant asserts that she is eligible for citizenship under section 301 of the Act, as even though her father naturalized at the age of 38 based upon a period of lawful permanent residency, he acquired U.S. citizenship at birth.

We review these proceedings *de novo*. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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 (9th Cir. 2001) (internal citation omitted). The Applicant in the present matter was born in [REDACTED]. Former section 301(a)(7) of the Act therefore applies to the present case.¹

¹Section 301(a)(7) of the former Act was re-designated as section 301(g) upon enactment of the Act of October 10, 1978, Pub. L. 95-432, 92 Stat. 1046. The substantive requirements of this provision remained the same until the enactment of the Act of November 14, 1986, Pub. L. 99-653, 100 Stat. 3655.

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Former section 301(a)(7) of the Act stated, in pertinent part, that the following shall be nationals and 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.

In order to acquire U.S. citizenship at birth under former section 301(a)(7) of the Act, the Applicant must therefore establish that his father was physically present in the United States for 10 years prior to her birth, five of which were after the Applicant's father attained the age of [REDACTED].

Assuming *arguendo* that the Applicant's father acquired U.S. citizenship at birth, under former section 301(a)(7) of the Act, the Applicant must demonstrate her father's physical presence in the United States for 10 years prior to her birth on [REDACTED].

The Applicant submitted an untranslated affidavit from the Applicant's father. The regulations at 8 C.F.R. § 103.2(b)(3) require that any document containing foreign language submitted to USCIS be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The record also contains an affidavit from the Applicant's father's cousin stating that the Applicant's father lived with him in the United States in 1961, travelled back to Mexico in 1965, and stayed with him for several months every year during seasonal employment; an affidavit from the Applicant's father's cousin-in-law, stating that the Applicant's father lived in California in 1966 and returned there during the work seasons; an affidavit from a friend of the Applicant's family stating that the Applicant's father resided in the United States from 1954 to 1964; a social security earning statement for the Applicant's father beginning in 1962; a passport and lawful permanent resident card for the Applicant's father indicating that he was admitted on February 19, 1962; a marriage certificate for the Applicant's father stating that his marriage was registered in Mexico on [REDACTED] 1965; an affidavit from a friend of the Applicant's father stating that he knows that the Applicant's father has resided in the United States since 1957; and a selective service registration certificate for the Applicant's father, dated August 10, 1962.

However, the Applicant's brother's record contains an affidavit from the Applicant's father indicating that he first entered the United States in February 1962. It is noted that the submitted governmental documents for the Applicant's father, including a social security statement, lawful permanent resident card, passport, and selective service registration, all include dates of 1962 or later. The record does not contain an explanation for the discrepancies concerning the Applicant's father's initial entry into the United States. Further, the period from February 1962, the month of the Applicant's father's stated initial entry to the United States, and May 8, 1971, the date of the

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Applicant's birth, includes less than 10 years. As the Applicant has not established that her father was physically present in the United States for 10 years prior to [REDACTED], she has not acquired citizenship at birth under former section 301 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). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of E-E-*, ID# 13991 (AAO Jan. 4, 2016)