U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-C-P-

DATE: JAN. 29, 2016

APPEAL OF HARLINGEN 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 (1986) (amended by Pub. L. No. 95-432, 92 Stat. 1046 (1978)). The Director, Harlingen 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 on [redacted] in Mexico to married parents. The Applicant's mother was born in Texas on [redacted] and is a U.S. citizen. The Applicant's father obtained U.S. citizenship through naturalization on October 21, 2009. The Applicant seeks a certificate of citizenship indicating that he acquired U.S. citizenship at birth through his mother.

On December 30, 2014, the Director denied the application, finding that the Applicant did not establish that his mother was physically present in the United States for 10 years prior to his birth as required by section 301(g) of the Act. In reaching this conclusion, the Director noted it was unlikely that the Applicant's mother was physically present in the United States as claimed, because she gave birth to seven children in Mexico between 1969 and 1985.

On appeal, the Applicant submits affidavits from his mother, father, and two relatives to explain why his siblings were born in Mexico between 1969 and 1985, the time period during which the Applicant's mother claimed residence and employment in the United States.

The evidence of the record includes, but is not limited to: the documents listed above, birth, marriage and baptismal certificates, the U.S. passport card of the Applicant's mother, her school record, her social security earning statement, the Applicant's school and immunization records, and affidavits.

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 was born in on [redacted] Accordingly, former section 301(g) of the Act controls his citizenship claim.[1]

Former section 301(g) 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 ... 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 ... for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years . . . .

Because the Applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008).

In order to acquire U.S. citizenship at birth under former section 301(g) of the Act through his mother, the Applicant must establish that his mother was a U.S. citizen at the time he was born and that she was physically present in the United States for 10 years prior to the Applicant's birth on [redacted] five of which were after her 14th birthday on [redacted]

The Applicant has established that his mother is a U.S. citizen. The record includes the Applicant mother's birth certificate, which shows that she was born in Texas. In addition, the Applicant submitted a copy of his mother's U.S. passport card reflecting that she is a U.S. citizen born in Texas. Accordingly, the Applicant has provided sufficient evidence to show that his mother is a U.S. citizen.

At issue is whether the Applicant has established by a preponderance of evidence that his mother was physically present in the United States for 10 years prior to his birth in [redacted] and that five of these years were after her 14th birthday in [redacted]

The "preponderance of the evidence" standard requires that the evidence demonstrate that the Applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, U.S. Citizenship and Immigration Services (USCIS) must examine each piece of evidence for relevance, probative value, and credibility, both

[1] Former section 301(a)(7) of the Act was re-designated as section 301(g) by the Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046 (1978) (1978 Act). The requirements of the statute remained the same after the 1978 re-designation and until 1986.

individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. 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).

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; *see also United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967).

Based on the review of the evidence, we find that the Applicant has not met his burden to demonstrate that his mother was physically present in the United States for 10 years, five of which were after her 14th birthday.

On the Form N-600, the Applicant represented that his mother resided, or was physically present in the United States between March 1952 and February 1954, February 1965 and December 1965, and June 1968 and November 1985. As evidence of his mother's presence in the United States between 1952 and 1954, the Applicant has submitted her birth and baptismal certificates. These documents indicate that the Applicant's mother was physically present in the United States for at least five months between her birth in and her baptism in August of the same year. In addition, the Applicant has submitted evidence to show that his mother attended a school in Texas for 14 days in February of 1965. Although the Applicant's mother states in her affidavit entitled "Brief Biography" (first affidavit) that she was present in the United States between February and December 1965, the Applicant has not submitted evidence to support this statement. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)).

To demonstrate that his mother was physically present in the United States between 1968 and 1985, the Applicant has submitted his sister's birth certificate, his mother's social security statement and affidavits. The birth certificate establishes that the Applicant's mother was physically present in the United States when she gave birth to the Applicant's sister in Texas in In her first affidavit, the Applicant's mother claimed that she remained in the United States after her daughter was born until 1985, working in the fields and as a housekeeper. The Applicant, however, has not submitted sufficient evidence to substantiate this claim. Specifically, the mother's social security

statement shows that her reported annual income in the United States between 1973 and 1986 (except years 1975, 1976 and 1978, when she earned no income in the United States) ranged from $235 to $2238. The minimal annual income reported by the Applicant's mother between 1973 and 1986 does not support the Applicant's claim of his mother's residence in the United States between 1968 and 1986. Furthermore, the Applicant has submitted a September 18, 2012, affidavit by the daughter of his mother's employer in the United States. The affiant claims that the Applicant's mother worked for her parents in the fields and as a housekeeper in between 1978 and 1985. However, the affidavit is inconsistent with an earlier affidavit, dated May 3, 2012, wherein the daughter of the Applicant's mother's employer states that the Applicant's mother worked for the family from 1979 through 1983. There is no explanation given for the difference in dates. Moreover, both affidavits lack detail and specificity about the mother's employment, her salary, and residence at the time. The Applicant has also not submitted additional evidence to corroborate the affiant's statements, such as paystubs, information about the affiant's parents' property or farm where his mother was allegedly employed, or any other evidence pertaining to his mother's employment and physical presence in the United States.

Depending on the specificity, detail, and credibility of a letter or statement, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g.*, *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The Board held in *Matter of Tijerina-Villarreal,* 13 I&N Dec. 327, 331 (BIA 1969), that:

> [W]here a claim of derivative citizenship has reasonable support, it cannot be rejected arbitrarily. However, when good reasons appear for rejecting such a claim such as the interest of witnesses and important discrepancies, then the special inquiry officer need not accept the evidence proffered by the claimant. (Citations omitted.)

Here, the affidavits do not include the affiant's identifying information, and they lack specificity and sufficient detail. In addition, the information in the later affidavit about the Applicant's mother's steady employment in the United States between 1978 and 1985 is inconsistent with her minimal earnings for those years reflected on the social security statement, and it is also inconsistent with the dates given in her earlier affidavit. Therefore, we cannot give either affidavit significant weight.

In addition, the record contains a document signed by the Applicant's mother, on which she lists all her children. The document shows that the Applicant's mother gave birth to one child in the United States in [redacted] and she had eight children in Mexico in [redacted] and [redacted] In the affidavit submitted with the appeal, the Applicant's mother explains that although she resided and worked in the United States she would go to Mexico to visit her husband. She

would get pregnant during those visits and give birth to her children while in Mexico. The record contains an affidavit from the Applicant's father corroborating this statement. However, the Applicant has not submitted evidence to show that his father resided in Mexico when the children were born. Further, although in her first affidavit the Applicant's mother claimed that she remained in the United States until 1985 after the birth of her daughter in [redacted] in the affidavit submitted on appeal she states that she returned to Mexico with her husband three weeks after their daughter was born. The Applicant has not provided an explanation for these inconsistent statements. In addition, we do not find the Applicant mother's explanation not persuasive, as it is unlikely that she would manage to return to Mexico every time she was about to give birth, while she claims she was employed and residing in the United States. Rather, the evidence, including the earnings on the Applicant's mother's social security statement, indicates that the Applicant's mother resided in Mexico during the time period in question and came to the United States only on occasion to work.

In view of the foregoing, we find that the evidence the Applicant submitted is insufficient to establish that his mother was physically present in the United States for not less than 10 years, five of which were after her 14th birthday, as required under section 301(g) 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 R-C-P-*, ID# 14679 (AAO Jan. 29, 2016)