



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

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

MATTER OF D-F-R-L-

DATE: JUNE 28, 2016

APPEAL OF HOUSTON, TEXAS 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. 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. *See* section 341(a) of the Act, 8 U.S.C. § 1452.

The Field Office Director, Houston, Texas, denied the application. The Director concluded the Applicant did not establish that he was admitted into the United States as a lawful permanent resident, or that he resided in the United States with his U.S. citizen parent, as required to derive citizenship under section 320 of the Act, 8 U.S.C. § 1431.

The matter is now before us on appeal. In the appeal, the Applicant submits his Mexican birth certificate and his father's U.S. birth certificate. His father states in a letter that he is trying to bring the Applicant to the United States, and he asks for instructions and assistance in processing the application. However, as the record reflects the Applicant resides in Mexico, we find we do not have jurisdiction over his claim to U.S. citizenship.

Therefore, upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant seeks a certificate of citizenship indicating that he derived U.S. citizenship from his U.S. citizen father. Section 341(a) of the Act provides that a person who claims to have derived U.S. citizenship through naturalization of a parent may apply to the Attorney General (now the Secretary of the Department of Homeland Security) for a certificate of citizenship, and that upon satisfaction that such person is a citizen, as claimed, the Secretary shall furnish a Certificate of Citizenship, but only if such individual is at the time within the United States.

The Secretary of the Department of Homeland Security has jurisdiction over the administration and enforcement of the Act within the United States. *See* section 103(a)(1) of the Act, 8 U.S.C. § 1103(a)(1). A citizenship claim made by an individual physically present outside of the United States may only be properly made before the U.S. Department of State through a consular officer. *See* Section 104(a) of the Act, 8 U.S.C. § 1104(a) (providing, in pertinent part, that the "Secretary of

(b)(6)

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State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to ... (3) the determination of nationality of a person not in the United States”); *see also* 22 C.F.R. § 50.2 (providing that the Department of State “[s]hall determine claims to United States nationality, when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America”)

Although the Secretary of State has jurisdiction over claims of U.S. citizenship made by persons who are abroad, and the Secretary of Homeland Security has jurisdiction over the administration and enforcement of the Act within the United States, there is nothing precluding U.S. Citizenship and Immigration Services (USCIS) from accepting a Form N-600, Application for Certificate of Citizenship, filed under sections 301 or 309 of the Act by a person who does not live in the United States. *See* USCIS Policy Manual, Vol. 12, Part H, Chap.3, *United States Citizens at Birth (INA 301 and 309)*, <https://www.uscis.gov/policymanual>.

Under section 301(g) of the Act, for an individual claiming to be a U.S. citizen at birth, who was born on or after 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 5 years (2 of which occurred after the age of 14) before the individual’s birth. If the individual was born to unmarried parents, the individual must also satisfy legitimation requirements. *See* section 309(a) of the Act.

II. ANALYSIS

The record reflects that the Applicant was born on [REDACTED], in [REDACTED] Mexico to a U.S. citizen father and a Mexican citizen mother. It is unclear whether the Applicant’s parents were married at the time of his birth. In August 2014, the Applicant filed a Form N-600, claiming that he derived U.S. citizenship from his father. The Applicant represented on his Form N-600 that he resides in Mexico. In addition, a letter from the Applicant’s father, submitted on appeal, indicates that the Applicant is in Mexico and that the father is trying to bring the Applicant to the United States.

We sent a letter to the Applicant in January 2016, notifying him of a possible citizenship at birth claim under sections 301(g) and 309(a) of the Act, and asking for evidence of his parent’s marital status and of his father’s physical presence in the United States prior to the Applicant’s birth. The Applicant did not respond to our request, and the record contains no evidence to demonstrate that the Applicant is eligible for U.S. citizenship under sections 301(g) or 309(a) of the Act.

The record does not demonstrate that the Applicant filed the Form N-600 under sections 301(g) or 309(a) of the Act. Also, the record reflects that the Applicant was outside of the United States when he filed the Form N-600, and that he continues to reside outside of the United States at this time. Therefore, jurisdiction to adjudicate his claim to U.S. citizenship lies with the Department of State, not USCIS. Because we have no jurisdiction to adjudicate the Applicant’s Form N-600, we find that analysis of the merits of his derivative citizenship claim would serve no purpose.

IV. CONCLUSION

A citizenship claim made by an individual physically present outside of the United States may only properly be made before the U.S. Department of State. Because the Applicant resides in Mexico, we do not have jurisdiction over his claim to U.S. citizenship. Accordingly, we must dismiss the Applicant's appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of D-F-R-L-*, ID# 14402 (AAO June 28, 2016)