



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

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

MATTER OF H-H-G-M-

DATE: JULY 25, 2017

CERTIFICATION OF HARLINGEN, TEXAS FIELD OFFICE DECISION

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

The Applicant, who was born to married parents in Mexico in [REDACTED] seeks a Certificate of Citizenship indicating he acquired U.S. citizenship at birth from his mother. *See* Immigration and Nationality Act (the Act) former 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. An individual who was born between December 24, 1952, and November 14, 1986, to married parents one of whom was a U.S. citizen and the other a foreign national, must show that the U.S. citizen parent was physically present in the United States for 10 years (with at least five years after the age of 14) before the individual's birth.

The Director of the Harlingen, Texas Field Office denied the application, concluding that the Applicant did not establish his mother had the requisite physical presence in the United States to transmit citizenship. The Director certified the matter to us for review and notified the Applicant he could submit a brief or statement for us to consider. We have received the Applicant's brief in response to the Director's certification notice.

The Applicant asserts in his brief that because his mother worked in the United States as a laborer, he does not have documentary evidence to prove she was in the United States. He argues, however, that the affidavits he submitted should be afforded significant evidentiary weight because they provide a credible, consistent, and detailed account of his mother's physical presence in the United States prior to his birth.

Upon review, we will affirm the Director's decision because the evidence, considered in its totality, is insufficient to demonstrate that the Applicant's mother was likely present in the United States for at least 10 years before he was born.

I. LAW

The applicable law for transmitting citizenship to a child who was 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). At the time of the Applicant's birth in [REDACTED] former section 301(a)(7) of the Act provided that the following were 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, or periods of employment with the United States Government or with an international organization . . . may be included in computing the physical presence requirements of this paragraph.

Because the Applicant was born abroad, he is presumed to be a foreign national 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).

II. ANALYSIS

The record reflects that the Applicant's mother is a U.S. citizen, who was born in the United States in [REDACTED]. In [REDACTED] when she was 14 years old, she married the Applicant's father, a Mexican citizen.¹ The Applicant was born of that marriage in [REDACTED] in Mexico. The only issue is whether the Applicant has shown that his mother was physically present in the United States for at least 10 years before the Applicant's birth in [REDACTED] and that five of those years were after her 14th birthday in [REDACTED].²

The Applicant represented on the Form N-600, Application for Certificate of Citizenship, that his mother was physically present in the United States from birth until October 1950; that she thereafter visited the United States in December each year from 1951 until she was married in Mexico in [REDACTED] and that following the marriage she spent more than half her time in the United States, working as a migrant laborer or performing odd jobs. To support these representations, the Applicant initially submitted statements from his parents, his mother's uncle, and her cousin, dated in 2012. The

¹ The Applicant's mother claims, and her marriage certificate reflects, that she was married at the age of 15; however, if she was born in [REDACTED] as claimed, she would have been only 14 years old when she was married on [REDACTED].

² The record reflect that the applicant was lawfully admitted to the United States for permanent residence when he was seven years old, and his father became a U.S. citizen through naturalization in 1995. The Applicant does not claim, and the record does not show, he was eligible to derive U.S. citizenship from his father. Former section 320 of the Act, 8 U.S.C. § 1431, as in effect prior to the Applicant's 18th birthday provided that a child, who like the Applicant was born outside of the United States to one U.S. citizen and one foreign national parent would automatically become a U.S. citizen if the foreign national parent naturalized and the child was residing in the United States as a lawful permanent resident *before* his or her 18th birthday. Because the Applicant's father did not naturalize until *after* the Applicant's 18th birthday, the Applicant was not eligible to derive citizenship from him under former section 320 of the Act.

Applicant subsequently supplemented the record with two affidavits executed by his mother and her friend in 2014; two photographs of his mother taken in the United States in 1962 and [REDACTED] and one photograph of his father taken in 1969. In addition, the Applicant provided a copy of his mother's Form I-179, Identification Card for the Use of Resident Citizen in the United States,³ issued in 1969. The Applicant and his mother were interviewed in 2015; however, the Director determined that the mother's and the affiants' testimony alone was insufficient to establish she had requisite presence in the United States and issued a request for additional evidence (RFE). In response, the Applicant re-submitted the previously-provided statements and documents. The Director denied the application finding that the affidavits were neither adequately detailed nor consistent to satisfy the Applicant's burden of proof without additional corroborative evidence.

The Applicant states on certification that his mother's testimony and affidavits establish she lived in the United States as a child from birth until 1951, that she visited the United States for one month each year between 1951 and [REDACTED] and that from [REDACTED] until 1975, she accumulated approximately 32 months of physical presence in the United States. The Applicant claims he has therefore established that his mother spent over 10 years in the United States before he was born.

We disagree. Depending on the specificity, detail, and credibility of an affidavit, letter, or statement, U.S. Citizenship and Immigration Services (USCIS) may give the document more or less persuasive weight in a proceeding. *Cf. Vera-Villegas v. INS*, 330 F.3d 1222, 1235 (9th Cir. 2003) (holding that the applicant met his burden of proving physical presence despite lack of contemporaneous documentation where he presented detailed testimony, three witnesses, and numerous affidavits); *Lopez Alvarado v. Ashcroft*, 381 F.3d 847, 854 (9th Cir. 2004) (finding that the applicants substantiated their physical presence in the United States through testimony by multiple employers, and letters from landlords, friends, family, and church members). In addition, 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) (citations omitted). However, introduction of corroborative testimonial and documentary evidence, where available, is not only encouraged, but required. *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence. *See generally Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The letters and affidavits the Applicant submitted in these proceedings do not include detailed and consistent information sufficient to overcome the lack of documentary evidence of his mother's presence in the United States during the relevant time period between [REDACTED] and [REDACTED]. They do not therefore establish, without more, that his mother satisfied the physical presence requirement of former section 301(a)(7) of the Act to transmit her U.S. citizenship to the Applicant.

³ Forms I-179 and I-197 were issued in the past as documentation of U.S. citizenship. *See* 8 C.F.R. § 235.10.

A. Physical Presence From [REDACTED] to 1950

Although the Applicant's mother states in her letter and affidavit she lived in [REDACTED] Texas, with her parents, sisters, and some of her uncles and their families until she was [REDACTED] or [REDACTED] years old, the evidence is insufficient to support her statement.

The mother's birth certificate shows she was born in Texas in late [REDACTED] and her birth was registered two months later. However, the Applicant has not submitted other documents, such as the mother's baptismal certificate, or birth certificates of her sisters to corroborate his mother's claim she remained in the United States until her family was deported to Mexico in 1950 or 1951. Although the mother's uncle states that the mother lived in the United States until mid-1951, he does not provide information about his own date and place of birth, residence, or employment during this time period, nor does he explain the source of his knowledge about the mother's presence in the United States. Given this lack of detail, we cannot afford his letter significant weight. While it is possible that the mother may have lived in the United States as a child, the mother's and her uncle's general statements are insufficient to demonstrate that the Applicant's claim his mother was in the United States for five years is probably true. We conclude, therefore, that in absence of other evidence, the mother's birth certificate establishes only she was likely present in the United States for approximately two months after she was born.

B. Physical Presence From 1951 to [REDACTED]

The Applicant states that during the above time period his mother spent approximately one month each year in the United States, a total of eight months. Again, the letters and affidavits alone do not tend to show this statement is more than likely true.

First, the mother's and her family members' statements regarding her presence in the United States before she was married are neither detailed nor consistent. For example, the mother states in her affidavit that while she lived in Mexico from 1951 until 1955 and attended school there, she would come to the United States to play with her cousins every weekend, sometimes even every day, with her aunt and uncle who "had papers to cross" the U.S. border. She does not identify her aunt and uncle or her cousins. Furthermore, she does not provide details about their residence or employment in Texas during this time period, or any other information that would lend credibility to her claim.

She further states that in 1955, her own mother obtained a border crossing card, and they both went to live in (or near) [REDACTED] New Mexico, with the same uncle who provided a letter attesting to the mother's presence in the United States prior to 1951. However, the mother's statements are inconsistent with her 2012 letter, in which she makes no mention of her purported residence in New Mexico, claiming instead that between 1951 and [REDACTED] she would come to [REDACTED] El Paso, and parts of [REDACTED] Texas, every year to visit her aunts and uncles and to work in the fields. Although she also stated she would go to the United States for two to three weeks in the summer and around Christmas, and that she would work in the United States for several months during picking

season before she was married in [REDACTED] those statements are not specific enough to determine how much time the mother actually spent in the United States in the 1951-[REDACTED] time frame.

The mother's statements are also inconsistent with the letter provided by her uncle, with whom she claims she lived in New Mexico after 1955. The uncle attests only to the mother's visits in [REDACTED] every December from 1951 until 1958; he does not claim he resided in New Mexico during this or any other time period. The mother's cousin adds in her letter that the mother would come to visit her family in [REDACTED] every Christmas; in May, to celebrate the cousin's father's birthday; and during school vacation in August. The cousin does not specify the name of her father and, thus, it is not clear whether he is the mother's uncle who also provided the letter attesting to her presence in the United States until 1958. Neither letter includes information about the uncle's and the cousin's place of birth, the timing of their residence in the United States, or any other details that would tend to show they have personal knowledge of the mother's presence in the United States. Without this information we are unable to determine if the mother's uncle and cousin were in the United States during the time period they attest to and, thus, whether their statements should be given significant weight.

Furthermore, while the cousin indicates that prior to [REDACTED] the mother would come to the United States for winter holidays *and* summer vacations, her uncle states only she visited the United States every December for two weeks before she was married. Finally, the mother's claim that in addition to her Christmas visits she also came to the United States for several months each year during picking seasons before she was [REDACTED] years old, is inconsistent with both the uncle's and the cousin's testimony. The Applicant does not explain the conflicting statements, nor does he offer evidence to resolve them. Accordingly, we are unable to determine, based on the mother's, her uncle's, and the cousin's statements alone how much time the mother actually spent in the United States before [REDACTED]

C. Physical Presence From [REDACTED] to [REDACTED]

The evidence is also insufficient to determine the amount of time the mother spent in the United States during the eight-year period after her marriage and before the Applicant's birth.

The mother's uncle and her cousin state she stopped visiting them in [REDACTED] after she was married in Mexico in [REDACTED]. The mother claims in her affidavit she lived with the Applicant's father in Mexico for one month after they were married in [REDACTED] and then they both moved to [REDACTED] Texas, where she, the Applicant's father, and their three sons⁴ lived with family friends until 1975. This statement however conflicts with her 2012 letter, where she stated she worked in different areas of the United States after her first child was born in [REDACTED] but primarily in [REDACTED] Texas, and the family did not move to [REDACTED] until after her spouse and children legally immigrated to the United States in late 1975. It is also inconsistent

⁴ The record reflects the mother's first son was born in Mexico in [REDACTED]. Next, she had a daughter born in [REDACTED] and a son born in [REDACTED]. The Applicant and his twin sister were born in [REDACTED]. Accordingly, because the mother's third son was not born until [REDACTED] it appears her statements pertain to the time period after [REDACTED]

with the statement of the Applicant's father, who claims in his letter that from [redacted] until 1963 the Applicant's mother would come to the United States once a month for two weeks if she could find a good housekeeping job, and that they would both stay in the United States for a few months during picking seasons. Although the Applicant submitted an affidavit from the mother's friend, the affidavit does not resolve the conflicting statements. The friend states that the Applicant's mother and her spouse lived with her in [redacted] since [redacted] and that they remained there after she moved to Oregon in 1975. However, the Applicant's mother represented on the Form I-130, Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa, which she filed on her spouse's behalf, that she had been residing in [redacted] Texas, since February 1975. Moreover, while the mother and the father claim the mother would come to the United States when she could find a good housekeeping job or during picking seasons, according to the friend's affidavit she worked primarily at her home in [redacted] taking care of the friend's children, cleaning, and cooking, although sometimes she would also clean other houses.

Finally, the friend's statement is inconsistent with the Applicant's, his mother's, and his father's statements indicating that the mother's employment in the United States was seasonal. Thus, we are unable to determine based on the letters and affidavits how much time the Applicant's mother was in the United States after she was married in [redacted] and before the Applicant was born in [redacted]. We recognize that the Applicant submitted two photographs of his mother, purportedly taken in [redacted] in 1962 and [redacted]. However, while the photographs indicate the mother could have been present in the United States for some time before the Applicant was born, they do not, even when considered with the letters and the affidavits, support the Applicant's claim that this presence likely amounted to at least 10 years. We also acknowledge that the record contains the father's 1969 photograph and a copy of the Form I-179 issued to the mother in 1969. But, as this evidence pertains to the time period after the Applicant's birth, it merits little weight in demonstrating the mother's presence in the United States before [redacted].

The Applicant argues in his brief, relying on the provisions of the U.S. Department of State Foreign Affairs Manual (FAM), that a U.S. citizen parent can transmit citizenship to his or her child even if the exact months, days, or hours of the parent's physical presence in the United States are unknown as long as he or she was in the United States for a sufficient number of years. 7 FAM 1133.3-4(b). We agree that it is usually not necessary to compute the U.S. physical presence required to transmit citizenship "down to the minute." However, when, as in this case, it is not clear that the parent has enough physical presence in the United States, it is important to obtain and consider the exact dates of the parent's entries and departures. In some cases, it is important to know the number of hours a parent spent in the United States on a particular day. 7 FAM 1133.3-4(c).

Here, the Applicant's submitted only two photographs and letters and affidavits from his family members and the mother's friend to substantiate his claim of his mother's presence in the United States. Because the letters and affidavits lack specificity and detail, and they are also inconsistent with the Applicant's representations on the Form N-600 and with each other, they are insufficient for us to determine how much time the mother actually spent in the United States prior to [redacted].

III. CONCLUSION

In view of the above, we find that the Applicant has not demonstrated that his mother satisfied the 10-year U.S. physical presence requirement to transmit citizenship. The Applicant is therefore ineligible for issuance of a Certificate of Citizenship.

ORDER: The application is denied.

Cite as *Matter of H-H-G-M-*, ID# 374160 (AAO July 25, 2017)