



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

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

MATTER OF V-R-M-

DATE: NOV. 30, 2018.

APPEAL OF ALBUQUERQUE, NEW MEXICO FIELD OFFICE DECISION

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

The Applicant, who was born in Mexico in 2008, seeks a Certificate of Citizenship indicating that she acquired U.S. citizenship at birth through her mother. Immigration and Nationality Act (the Act) section 309(c), 8 U.S.C. § 1409(c). An individual claiming to acquire citizenship at birth, who was born between December 23, 1952 and June 12, 2017 to an unmarried U.S. citizen mother, must generally show that the mother was physically present in the United States for one continuous year before the individual's birth.

The Director of the Albuquerque, New Mexico Field Office denied the application, concluding the Applicant provided insufficient evidence to demonstrate that his U.S. citizen mother was physically present in the United States for the required time period.

On appeal, the Applicant claims that the evidence in the record shows her mother met section 309(c) of the Act continuous U.S. physical presence requirements.<sup>1</sup>

Upon *de novo* review, we will dismiss the appeal.

#### I. LAW

The record reflects that the Applicant was born in Mexico on [REDACTED] 2008, to unmarried parents, a U.S. citizen mother and a foreign national father.<sup>2</sup> She seeks a Certificate of Citizenship indicating that she acquired U.S. citizenship at birth from her mother.

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*

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<sup>1</sup> The Applicant also refers generally to conditions for deriving U.S. citizenship through a citizen parent under section 320 of the Act, 8 U.S.C. § 1431; however, she does not meet these requirements. Section 320 of the Act requires, amongst other things, that she reside in her citizen parent's custody in the United States as a lawful permanent resident before the age of 18. Here, the Applicant does not claim, and the record does reflect, that she is a U.S. lawful permanent resident.

<sup>2</sup> The Applicant's birth certificate and her mother's Certificate of Citizenship show their parent-child relationship, and that her mother was a U.S. citizen when the Applicant was born.

*Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). Based on her year of birth, the Applicant's citizenship claim falls within the provisions of section 309(c) of the Act, which provides, in pertinent part:

[A] person born after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.<sup>3</sup>

Because the Applicant was born abroad, she is presumed to be a foreign national and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). The "preponderance of the evidence" standard requires that the record demonstrate the Applicant's claim is "probably true," based on the specific facts of her case. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r. 1989)).

## II. ANALYSIS

The issue here is whether the Applicant provided sufficient evidence to establish that prior to her birth in [REDACTED] 2008, her mother was physically present in the United States for a continuous period of one year.

The Applicant claims that the evidence in the record demonstrates her mother met this requirement. In support, the record contains statements from family members and a pastor, and immigration-related documents for her mother. This evidence, however, does not establish the Applicant's claims.

In ascertaining the evidentiary weight of affidavits, we must determine the basis for the affiant's knowledge of the information to which she or he is attesting, and whether the statements are plausible, credible, and consistent both internally and with the other evidence of record. *See Matter of E-M-*, 20 I&N Dec. 77 (Comm'r. 1989). If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence. *See*

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<sup>3</sup> On June 12, 2017, the U.S. Supreme Court found that different U.S. physical presence requirements for unwed U.S. citizen mothers in section 309(c) of the Act (continuous period of one year), and for unwed citizen fathers in former section 301(a)(7) of the Act, 8 U.S.C. § 1401(a)(7) and current section 301(g) of the Act (10 or 5 years, respectively), violate equal protection provisions of the Fifth Amendment. *See Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1701 (2017). The Supreme Court declined to apply the section 309(c) continuous period of one year physical presence requirement to the child of an unwed U.S. citizen father, stating instead that, "[g]oing forward, Congress may address the issue and settle on a uniform prescription that neither favors nor disadvantages any person on the basis of gender," and that in the interim the longer physical presence requirement should also apply prospectively, to children born to unwed U.S. citizen mothers. *Id.* In this case the Applicant was born prior to June 2017, and the section 309(c) of the Act one year physical presence condition continues to apply to her.

*Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998). Here, the statements from the Applicant's family members and pastor have limited evidentiary weight in that they lack detail, contain unresolved inconsistencies, and are uncorroborated by independent evidence.

The record reflects that the Applicant's mother was born in Mexico in 1985, and she obtained her Certificate of Citizenship in 2018 through a citizen parent. The mother's aunt claims in a one-sentence statement, however, that the Applicant's mother lived with her in [REDACTED] California from 2006 to 2011. Her mother similarly asserts that she lived with and cared for her aunt's children in [REDACTED], California between 2006 and 2011. The mother states further that: she met the Applicant's father in [REDACTED], California in 2007; they had a long-distance relationship consisting of visits to either [REDACTED] or [REDACTED]; despite living in California, she gave birth to the Applicant and his sibling in Mexico because their paternal grandfather was a doctor there; and the Applicant and his sibling lived with their father in [REDACTED] Mexico until 2014, when her relationship with the father ended.

These claims lack details about exactly when the Applicant's mother lived in the United States, and what she did during the claimed time periods. Assertions that she lived in California between 2006 and 2011 also contradict claims from her pastor, who indicates in a letter that he was the mother's pastor in California a year earlier, between 2005 and 2011. In addition, all three claims are inconsistent with Mexican birth certificate information reflecting that the Applicant's mother and father resided at an address in [REDACTED] Mexico when the Applicant and her sibling were born in 2008 and 2010, respectively.

The Applicant must resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the Applicant submits competent objective evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, the Applicant submits documents showing her mother obtained U.S. lawful permanent resident status in 1996; and that U.S. Citizenship and Immigration Services sent a renewed lawful permanent resident card to her mother in [REDACTED], California in 2006. These documents do not address the inconsistencies in the record, or demonstrate if, when, or for how long the Applicant's mother was in the United States.

Before issuing a denial, the Director sent the Applicant a request for additional evidence of her mother's physical presence in the United States prior to her birth; however, the Applicant has submitted no other evidence to support her U.S. physical presence claims. Without additional corroborative evidence sufficient to overcome both the inadequate affidavits and the inconsistent claims, we find the Applicant has not established that prior to her birth, her mother was physically present in the United States for a continuous period of one year.

### III. CONCLUSION

The Applicant has provided insufficient evidence to establish that her mother was physically present in the United States for a continuous period of one year prior to her birth. Accordingly, she has not

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demonstrated by a preponderance of the evidence that she acquired U.S. citizenship at birth through her mother under section 309(c) of the Act.

**ORDER:** The appeal is dismissed.

Cite as *Matter of V-R-M-*, ID# 2706479 (AAO Nov. 30, 2018)