U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-B-G-

DATE: SEPT. 4, 2019

APPEAL OF HARLINGEN, TEXAS FIELD OFFICE DECISION

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

The Applicant seeks a Certificate of Citizenship to reflect that she acquired U.S. citizenship from a parent under former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7).[1]

In denying the application, the Director of the Harlingen, Texas Field Office concluded that the Applicant provided insufficient evidence to establish her U.S. citizen father was physically present in the United States for the required time period under section 301 of the Act.[2]

On appeal, the Applicant submits a brief. She claims that the Director did not properly consider all of the evidence in the record, and that she has shown by a preponderance of the evidence that her father satisfied the necessary U.S. physical presence requirements.

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

I. LAW

The record reflects that the Applicant was born in Mexico on [redacted] 1957, to married parents, a U.S. citizen father and a Mexican citizen 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 Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). Based on the Applicant's birth in 1957, her citizenship claim falls under former section 301(a)(7) of the Act which provided, in pertinent part, that the following individuals acquired U.S. citizenship at birth:

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[1] Amended by Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046.

[2] The Director indicates that the Applicant's citizenship claim was determined under former section 301(g) of the Act. 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). The requirements for former sections 301(a)(7) and 301(g) of the Act were the same after the re-designation, and until 1986.

> [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.

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 on appeal is whether the Applicant has demonstrated by a preponderance of the evidence, that her father was physically present in the United States for 10 years prior to her birth in [redacted] 1957, at least 5 years of which were after he turned 14, in [redacted] 1946.[3]

The Applicant claims that the totality of the evidence sufficiently establishes her father met these requirements. In support, the record contains letters and affidavits from friends, family, and a church organization; birth, marriage, and U.S. citizenship documents; and border crossing card information. The entire record has been reviewed and considered. Upon review, we find that the record contains insufficient evidence to establish that the Applicant's father was physically present in the United States for the requisite period set forth in former section 301(a)(7) of the Act.

Although the Applicant submits several affidavits to support the claim that her father lived in the United States for more than ten years before her birth, the affidavits have limited evidentiary value. In ascertaining the evidentiary weight of an affidavit, we must determine the basis for the affiant's knowledge of the information to which he or she 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); *see also, Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998) (providing that if testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence.)

Family friend, [redacted]'s, statement that he met the Applicant's father in Mexico in 1957, and that he heard that the father spent his adolescent years in the United States lacks detail, and does not reflect any personal knowledge of the father's presence in the United States. A letter from the [redacted] similarly does not reflect personal knowledge of the father's U.S. physical presence, as it indicates that they heard from a family member that the father attended their school between 1937 and 1941. The letter also reflects that the Applicant's father's name was not contained in their archived records. Moreover, the organization's statement

[3] Birth certificate evidence reflects that the Applicant's father was born in Mexico on [redacted] 1932. In April 1968, he obtained a Certificate of Citizenship indicating that he acquired U.S. citizenship at birth through a citizen parent.

regarding the father's school attendance dates conflicts with oral and written statements made by the father's sister ([redacted]), which claim that the Applicant's father attended a Lutheran school in Texas for less than a year between 1938 and 1939.

The sister's sworn oral and written testimony conflicts further with written and oral statements made by the father's niece, [redacted]. The niece claims, for example, that that she saw the Applicant's father in [redacted], Texas on many occasions between 1949 and 1955, and that during that time period he lived with her aunt [redacted] and also worked at her aunt's convenience store in [redacted], Texas. The father's sister [redacted] claimed before an immigration officer in May 2018, however, that the Applicant's father never lived with his aunt [redacted] that the aunt never had a store in [redacted], and that the father only visited the aunt and would then return to Mexico. The sister also indicated that before he obtained his Certificate of Citizenship (in 1968), the Applicant's father did not spend a lot of time in the United States, and only came to this country on temporary visits. Furthermore, the Applicant's father also stated in relevant part on his Certificate of Citizenship application (dated in 1966 and contained in the record), that he arrived in the United States in January 1961 (which was after the Applicant's birth), and that he was previously in the United States with his parents for only about 6 months in 1936.

It is incumbent upon the Applicant to 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 record contains border crossing card information indicating that the Applicant's father was issued a border crossing card in October 1949. The documentation reflects, however, that the Applicant's father resided in Mexico when his card was issued; the card was for local crossings into Texas only; and that the father was admitted into Texas for eight days in March 1950, for one day in October 1950, for one day in September, 1951, and for an unspecified time period in November 1955, and in June 1957. Although this evidence shows at least 12 days of physical presence in the United States prior to the Applicant's birth, it does not demonstrate that the Applicant's father was physically present in the United States for ten years prior to the Applicant's birth in [redacted]1957, and it does not resolve the inconsistencies in the record regarding the father's U.S. physical presence.

Without additional independent evidence to resolve the inconsistencies in the record and demonstrate her father's physical presence in the United States for 10 years prior to the Applicant's birth, at least 5 after the father turned 14, the Applicant has not established that her father met former section 301(a)(7) of the Act U.S. physical presence requirements.

It is the Applicant's burden to establish her claimed citizenship by a preponderance of the evidence. 8 C.F.R. § 341.2(c). In view of the above, the Applicant has not met her burden.

ORDER: The appeal is dismissed.

Cite as *Matter of A-B-G-*, ID# 5106739 (AAO Sept. 4, 2019)