



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

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

MATTER OF R-H-G-H-

DATE: SEPT. 27, 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 he acquired U.S. citizenship from his father under former section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7).<sup>1</sup>

The Director of the Harlingen, Texas Field Office determined that the Applicant provided insufficient evidence to establish his U.S. citizen father was physically present in the United States for the required time period under section 301 of the Act.<sup>2</sup>

On appeal, the Applicant claims that he has shown by a preponderance of the evidence that his father satisfied the necessary U.S. physical presence requirements.<sup>3</sup>

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

I. LAW

The record reflects that the Applicant was born in Mexico on [ ] 1975, 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 1975, his 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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<sup>1</sup> Amended by Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046.

<sup>2</sup> 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.

<sup>3</sup> The Applicant also indicates that he will submit a brief outlining additional reasons for his appeal; however, we have not received a brief or any additional evidence.

[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, 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). The “preponderance of the evidence” standard requires that the record demonstrate the Applicant’s claim is “probably true,” based on the specific facts of his 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 his father was physically present in the United States for ten years prior to the Applicant’s birth (in [ ] 1975), at least five years of which were after the father turned fourteen (in [ ] 1947.)<sup>4</sup>

The Director determined that the U.S. physical presence claims made by affiants and the Applicant were inconsistent with the Applicant’s father’s statements; and that the record contained insufficient evidence to resolve the discrepancies, or establish that the Applicant’s father was physically present in the United States for the period of time required under former section 301(a)(7) of the Act.

The Applicant claims on appeal that his father’s residence statements “should not be interpreted as not physically present,” and that the totality of the evidence sufficiently demonstrates his father met former section 301(a)(7) of the Act U.S. physical presence requirements. In support, the record contains affidavits from friends and family; birth, marriage, and U.S. citizenship documents; and financial and border crossing card information. The entire record has been reviewed and considered. Upon review, we find that the Applicant has not established his claims.

Although the Applicant submits several affidavits to establish that his father was present in the United States for more than ten years before his 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) (If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the affected party to submit corroborative evidence.) Here, the affiants claim that they met the Applicant’s father during various years ranging between 1934 and 1944, and that they have personal knowledge that he lived in the United States until April 1991.<sup>5</sup> The claims lack details as to exactly where and when the

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<sup>4</sup> Birth certificate evidence reflects that the Applicant’s father was born in Mexico on [ ] 1933. He was issued a Certificate of Citizenship in March 1973, indicating that he acquired U.S. citizenship at birth through a citizen parent.

<sup>5</sup> Evidence reflects that the Applicant’s father passed away in Mexico in [ ] 1991.

Applicant's father lived in the United States. Moreover, as discussed in the Director's decision, the claims conflict with the Applicant's father's U.S. physical presence assertions. The Director points out, for instance, that the father indicated during removal proceedings (in or around [ ] 1952) that he had resided in the United States for only three months. Furthermore, the Applicant's father provided a [ ] Mexico residential address on his November 1972 citizenship application, and he stated during his March 1973 citizenship interview that he never lived in the United States.

The Applicant states simply on appeal that his father's U.S. residence statements "should not be interpreted as not physically present." However, it is incumbent upon the Applicant to resolve any inconsistencies 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). The Applicant submits no new evidence on appeal, and previously submitted evidence in the record does not resolve the inconsistencies with regard to his father's U.S. physical presence.

Without additional independent evidence to demonstrate his father's physical presence in the United States for the required time period, and to resolve the inconsistencies the Director noted, the Applicant has not met his burden of establishing eligibility to acquire citizenship through his father under former section 301(a)(7) of the Act.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-H-G-H-*, ID# 5122114 (AAO Sept. 27, 2019)