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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

PUBLIC COPY

[redacted]

FILE [redacted] Office: Miami Date: JUL 03 2003

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship under Section 341(a) of the Immigration and Nationality Act, 8 U.S.C. § 1452(a)

ON BEHALF OF APPLICANT:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting District Director, Miami, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on October 28, 1994, in France. The applicant's mother, [redacted] was born in Spain, on May 8, 1974, and acquired U.S, citizenship through her father, [redacted] who was born in the United States. The applicant's mother never married the applicant's father, [redacted]

The applicant seeks a certificate of U.S. citizenship under section 309(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1409(c), as a person born out of wedlock to a U.S. citizen mother.

The acting district director denied the application after he determined that the record failed to establish that the applicant's mother had the required continuous physical presence in the United States prior to his birth.

On appeal, the applicant's mother states that she is aware that she never resided in the United States until July 1997. She then discusses facts relating to herself and her family. On appeal, the applicant's mother requests oral argument.

Pursuant to 8 C.F.R. § 103.3(b), the affected party must explain in writing why oral argument is necessary. The Service has the sole authority to grant or deny a request for oral argument and will grant such argument only in cases that involve unique factors or issues of law that cannot be adequately addressed in writing. In this case, no cause for oral argument is shown. Consequently, the request is denied.

Section 309(c) of the Act states, in pertinent part, that:

> Notwithstanding the provision of subsection (a) of this section, 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.

The applicant has not demonstrated that his U.S. citizen mother met the continuous physical presence requirements as required under section 309(c) of the Act.

In accordance with 8 C.F.R. § 341.2(c), the burden of proof rests with the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met this burden. Accordingly, the appeal will be dismissed.

This decision is without prejudice to the applicant seeking lawful admission to the United States in a visa petition proceeding.

ORDER: The appeal is dismissed.