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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

[redacted]

MAY 07 2003

FILE: [redacted] Office: Fresno (SFR) Date:

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)

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

ON BEHALF OF APPLICANT: Self-represented

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, Fresno, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on August 14, 1953, in Mexico. The applicant's father, [redacted] was born in the United States in December 1927 and died in November 2001. The applicant's mother, [redacted] was born in Mexico in September 1919 and died in September 1990. The applicant's mother never had a claim to United States citizenship. The applicant's parents married each other on March 11, 1948, in El Paso, Texas. The applicant claims that he acquired United States citizenship at birth under section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The acting district director determined the record failed to establish that the applicant's United States citizen parent had been physically present in the United States or one of its outlying possessions for 10 years, at least 5 of which were after age 14, as required under section 301(g) of the Act), at the time of the applicant's birth.

On appeal, the applicant reviews the documentation previously submitted and states that the mistake his mother made was not registering his birth with the U.S. consulate in Mexico. The applicant states that he served in the U.S. Army as a physician for seven years

Section 301(g) of the Act in effect prior to November 14, 1986, provides, in pertinent part, that 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 10 years, at least 5 of which were after attaining the age 14 years, shall be nationals and citizens of the United States at birth.

The record establishes that the applicant's father was born in Arizona. This satisfies one year of physical presence. Social Security records reflect his earnings from 1947 until 1997. This satisfies six years of physical presence from 1947 until 1953. The record fails to contain any additional evidence of the father's physical presence in the United States prior to the applicant's birth.

The record also reflects that on October 6, 1958 the applicant was admitted to the United States by an immigration inspector who classified him as a U.S. citizen based solely on his birth certificate. This classification was made in error without any corroborating evidence. The stamp placed on the applicant's birth certificate by the immigration inspector only facilitated the applicant's entry into the United States and did not confer U.S. citizenship by law.

Absent additional supportive evidence, the applicant has not shown that he acquired United States citizenship at birth because he has failed to establish that his father was physically present in the United States for the required period prior to the applicant's birth.

Pursuant to 8 C.F.R. § 341.2(c), the burden of proof shall be on the claimant 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 a record of lawful admission under section 249 of the Act, 8 U.S.C. § 1259, as an alien who entered the United States prior to January 1, 1972.

ORDER: The appeal is dismissed.