PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

E2

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]

FILE: [redacted] Office: Houston Date: MAY 9 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]

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

The record reflects that the applicant was born on July 3, 1958, in Mexico. The applicant's father, [redacted] was allegedly born in the United States in April 1924. The applicant's mother, [redacted] was born in Mexico in 1924. The applicant's mother never had a claim to United States citizenship. The applicant's parents married each other in Mexico on June 14, 1946. The applicant was admitted to the United States on July 9, 2001, as a nonimmigrant visitor. The applicant claims that she 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 that the record failed to establish that at the time of the applicant's birth, the applicant's claimed 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 Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g). In addition, he found there was insufficient evidence to establish that the applicant's father had been born in the U.S. and was a U.S. citizen.

On appeal, counsel states that the preponderance of the evidence submitted in combination shows that the applicant's father was physically present in the United States for the requisite time. Counsel states that he is filing a separate written brief. No additional documentation has been received since the appeal was filed on October 23, 2002. Therefore, a decision will be entered based on the present record.

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 acting district director reviewed the documentation in the record including the applicant's father's social security statement showing minimal earnings for a few years prior to the applicant's birth; documentation issued after the applicant's birth; the father's selective service registration card reflecting a residence in Mexico; the father's driver's license issued after the applicant's birth; affidavits from individuals born after the applicant's father and other documentation issued after the applicant's birth. The acting district director determined that none of the documentation establishes that the applicant's father was present for the requisite period or that he was born in the U.S.

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 of establishing her father had been physically present in the United States a total of 10 years, 5 of which were after the age 14 or was actually born in the U.S. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.