



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

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

In Re: 36904542

Date: FEB. 18, 2025

Appeal of El Paso, Texas Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born abroad to unmarried parents, seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship at birth from his mother under section 309(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1409(c).

The Director of the El Paso, Texas Field Office denied the application, concluding that the record did not establish that the Applicant's U.S. citizen mother had been continuously physically present in the United States for one year before his birth. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

I. LAW

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. *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted).

As the Applicant indicated that his parents were never married to each other, we consider his citizenship claim under section 309(c) of the Act, which provides in pertinent part that a person born abroad "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."

Because the Applicant was born abroad, he is presumed to be an alien and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). Under the preponderance of the evidence standard, the Applicant must demonstrate that his U.S. citizenship claim is "probably true," or "more likely than not." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Applicant was born in Mexico in [] 1996. He submitted a copy of his mother's birth certificate showing that she is a U.S. citizen by virtue of her birth in the United States in 1975. The Applicant indicated that his parents were not married, and the record contains no indication that his father is a U.S. citizen. On his Form N-600, the Applicant stated his mother was physically present in the United States before his birth from her birth in [] 1975 until February 1996. With his Form N-600, the Applicant submitted copies of his older siblings' birth certificates showing they were born in the United States in 1994 and 1995 and affidavits from family members.

The Director determined the affidavits from the Applicant's family members were insufficient to establish his mother's continuous physical presence in the United States because they did not provide exact dates or addresses of where his mother lived. The Director concluded the evidence did not establish that the Applicant's mother met the physical presence requirement of section 309(c) of the Act and denied the Application.

On appeal, the Applicant resubmits copies of his siblings' birth certificates and submits new affidavits from his mother, grandmother, and great aunt. The Applicant's mother, grandmother, and great aunt all state that the Applicant's mother resided with his great aunt at an apartment in [] Texas from March 1993 until 1996. They provide the exact address, which matches the address of the Applicant's mother listed on the Applicant's siblings' birth certificates. The preponderance of the evidence, as supplemented on appeal, now shows that the Applicant's mother was continuously physically present in the United States for at least one year before the Applicant's birth.

III. CONCLUSION

The Applicant has established his mother's physical presence in the United States and meets the remaining criteria for acquisition of citizenship under section 309(a) of the Act.

ORDER: The appeal is sustained.