



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

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

In Re: 35717245

Date: JAN. 27, 2025

Appeal of San Jose, California Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that she acquired U.S. citizenship at birth from her mother 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 San Jose California Field Office denied the application, concluding that the record did not establish that the Applicant qualified for a Certificate of Citizenship. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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).

The Applicant was born abroad in [ ] 1968 to married parents, a U.S. citizen mother and a non-citizen father. At that time, former section 301(a)(7) of the Act governed acquisition of U.S. citizenship by children born abroad to one U.S. citizen and one noncitizen parent. It provided, in relevant part that a child would acquire citizenship from the U.S. citizen parent if the parent "prior to the birth of such [child], 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, she is presumed to be a noncitizen and bears the burden of establishing her claim to U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008). The "preponderance of the evidence" standard requires the Applicant to demonstrate that her citizenship claim is "probably true," based on the specific facts of her case. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 dismiss the appeal.

According to the record, the Applicant's mother was born in the United States in [ ] 1942. The Applicant states that her mother resided in the United States from her birth in 1942 to 1958 when their

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<sup>1</sup> Re-designated as section 301(g) of the Act by Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046.

family moved to Canada. As previously stated, the Applicant was born in Canada in [ ] of 1968. In October 1977, the Applicant was admitted to the United States as a lawful permanent resident when her family moved to California. She states that both she and her mother have resided in the United States since that time.

The Director determined that the Applicant had not established that her mother was physically present in the United States for 5 years after the age of 14 and prior to the Applicant's birth and denied the application on that basis. On appeal, the Applicant states that her mother has continuously resided in the United States since 1977 and meets the physical presence requirements on that basis. We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

In the present case, the relevant period for which physical presence is required under former section 301(a)(7) of the Act is between the date the Applicant's mother was born in 1942 and the birth of the Applicant in 1968. The added requirement of 5 years of physical presence after the age of 14 and before the applicant's birth includes the years 1956 to 1968. According to the Applicant's statement on appeal, her mother moved abroad in 1958 at the age of 16 and did not return to the United States until 1977, after the Applicant's birth. While we acknowledge the submission of additional documents establishing her mother's physical presence after 1977, the Applicant has provided no additional evidence on appeal of her mother's physical presence during the relevant period specified above.

Accordingly, the Applicant has not met her burden in establishing that her U.S. citizen mother accrued 10 years of physical presence in the United States, including 5 years after the age of 14, prior to the Applicant's birth in 1968, as required for transmission of citizenship. She has therefore not established eligibility for a Certificate of Citizenship and the application will remain denied.

**ORDER:** The appeal is dismissed.