



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

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

In Re: 23311486

Date: NOV. 30, 2022

Appeal of Imperial, California Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship from his U.S. citizen mother under former section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The Director of the Imperial, California Field Office denied the Form N-600, Application for Certificate of Citizenship (Form N-600), concluding that the record did not establish that the Applicant's mother had satisfied former section 301(g) of the Act parental physical presence conditions and therefore the Applicant had not shown that he acquired U.S. citizenship through a U.S. citizen parent. The matter is now before us on appeal.

On appeal, the Applicant claims that the record before the Director is sufficient to show that his U.S. citizen mother was physically present in the United States for the required period of time. He submits a brief on appeal.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. 8 C.F.R. § 103.2(b)(1). Upon *de novo* review, we will dismiss 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. *See Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). Based on the Applicant's birth in Mexico in 1981, his citizenship claim through his U.S. citizen mother falls within the provisions of former section 301(g) of the Act.¹

Former section 301(g) of the Act stated that the following shall be nationals and citizens of the United States at birth:

¹ Former section 301(a)(7) of the Act was re-designated as section 301(g) upon enactment of the Act of October 10, 1978, Pub. L. 95-432, 92 Stat. 1046. The substantive requirements of this provision remained the same until the enactment of the Act of November 14, 1986, Pub. L. 99-653, 100 Stat. 3655.

[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 ten years, at least five of which were after attaining the age of fourteen years[.]

Because the Applicant was born abroad, he is presumed to be a foreign national and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *See Matter of Baires*, 24 I&N Dec. 467, 468 (BIA 2008). The “preponderance of the evidence” standard requires that the record demonstrate that the Applicant’s claim is “probably true,” based on the specific facts of his case. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Applicant’s birth certificate shows that he was born in [redacted] 1981 in Mexico to a mother named A-C- and a father named J-M-.² The record shows that he subsequently entered the United States as a lawful permanent resident in December 1985. The record does not show that the Applicant’s father was a U.S. citizen. Consequently, the Applicant seeks a Certificate of Citizenship solely through his U.S. citizen mother. As discussed, the Director found that the Applicant had not shown that his mother satisfied the former section 301(g) of the Act physical presence conditions.

To satisfy former section 301(g) of the Act physical presence conditions, the Applicant must establish that his mother was physically present in the United States for not less than ten years before the Applicant’s birth in [redacted] 1981, and that at least five of these years were after the mother’s fourteenth birthday in [redacted] 1965.

The Applicant provided a U.S. birth certificate showing that his mother was born in the United States in [redacted] 1951. On his Form N-600, the Applicant claimed that A-C- was physically present in the United States for unspecified periods of time in 1957 and in each year beginning in 1965 and ending in 1973, and he provided November 2021 personal statements from his mother and her brother discussing the family’s periods of work and residence in the United States during their childhood.³ Additional relevant evidence intended to show the mother’s physical presence in the United States prior to the Applicant’s birth includes a U.S. social security earnings statement showing the mother’s U.S. earned income beginning in 1967, her 1973 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, and some copies of envelopes addressed to the mother at various locations in the United States. The Applicant also submitted his maternal grandfather’s social security earnings statement.⁴ However, the Director concluded that the evidence did not include sufficient information

² Names withheld to protect the individuals’ identities.

³ Although the Form N-600 requests that applicants list the beginning and ending dates of each period of claimed U.S. physical presence in month, day, and year format, the Applicant provided only a year (e.g., “From: 1957 To: 1957.”)

⁴ The Applicant also provided his own school records, certificates of training, and other evidence relating to his employment and income in the United States. However, this information relates to the period after his 1981 birth and therefore is not relevant to establishing that the Applicant’s mother satisfied the parental physical presence conditions at former section 301(g) of the Act.

to show that his mother had the minimum physical presence in the United States to satisfy the physical presence conditions of former section 301(g) of the Act, and denied the Form N-600.

On appeal, the Applicant submits a brief in which he claims that his previously provided evidence is sufficient to show that his mother was physically present in the United States for at least ten years before his birth in 1981, and that no less than five of these years were after she had fourteen years old in [redacted] 1965. He does not submit additional evidence on appeal; however, we have considered the record below based on our de novo review.

In her November 2021 statement, A-C- claimed that from the time of her birth, she had always been with her parents. A-C- explained that her parents had worked in California, moving from place to place in order to harvest different crops from different ranches, and had resided in housing provided by the employing ranches. She said that this was the family's way of life for many years, during which she stayed home with her mother cooking and cleaning and was never registered for school. In addition, the Applicant's mother stated that her father returned to Mexico to visit relatives every time the work season was over. We note that the Applicant's administrative record contains a 2009 statement from his mother that he provided during removal proceedings in which A-C- claimed that she had been in the United States from her birth in 1951 until she was six years of age in 1957, and that her parents brought her to the United States for four months each year from 1957 to 1965, and then for a total of 80 months between 1965b and 1973. The Applicant also included a statement from his mother's brother, who attested that "everything in [the mother's 2021] letter is the truth." The uncle also stated that although he and the Applicant's mother resided with their parents during their childhood in the United States, "[w]e don't have documents to prove it." However, the statements from A-C- and the uncle are general claims, indicating that they had resided in various forms of housing in California during their childhood during each harvest season. Consequently, the statements from the mother and the Applicant's uncle are not sufficient to establish when and for how long the mother was physically present in the United States during any given year prior to the Applicant's birth in 1981.

The supporting information on the mother's social security earnings statement in the record below includes a portion of the relevant period in that it shows the mother had U.S. earnings of \$629.80 in 1967; \$1,128.67 in 1968; \$1,234.72 in 1969; \$804.00 in 1970; and \$200.40 in 1973 (supported by her 1973 Form W-2), and no income in 1971, 1972, and from 1974 through 1981. However, the statement does not show how long A-C- worked during each of the five years she earned income in the United States. The financial evidence that the Applicant provided relating to his mother shows, at best, that she was physically present when she worked in the United States for some unspecified periods of time in 1967, 1968, 1969, 1970, and 1973, but lacks sufficient details to show that she was physically present during all of those five years. Moreover, it does not show that A-C- was physically present in the United States during any other years of the relevant period that ended in [redacted] 1981. Although the Applicant also submitted his maternal grandfather's social security earnings statement showing the grandfather earned wages in some years of the relevant period before the Applicant's birth in 1981, the grandfather's earning statement also lacks information showing how long the father was physically present in the United States through his employment during any given year, nor does it contain any information showing that A-C- was physically present in the United States with her father during his periods of employment. Consequently, the social security earnings statements and other evidence of

wages for the Applicant's mother and her father are not sufficient to show that A-C- met the physical presence conditions at former section 301(g) of the Act.

We note that the Applicant also provided several envelopes addressed to his mother in the United States. Although several of the envelopes were addressed to A-C- at locations in California during the relevant period prior to the Applicant's birth in 1981, many also have illegible postmarks. Moreover, although the envelopes show that the writers sent letters to the Applicant's mother at addresses in the United States on certain dates, they do not contain sufficient details to show that the mother was physically present in the United States on any particular dates or for any specific periods of time. Consequently, the correspondence does not contain sufficient information to show that the mother was physically present in the United States for at least 10 years before the Applicant's birth in 1981, and that at least 5 years of her physical presence were after the mother had turned 14 years of age in 1965.

III. CONCLUSION

Based on the above, the Applicant has not shown by a preponderance of the evidence that he satisfies the physical presence conditions of former section 301(g) of the Act to establish that he acquired U.S. citizenship through his mother. Consequently, he is not eligible for a Certificate of Citizenship, and the Form N-600 remains denied.

ORDER: The appeal is dismissed.