



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

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

In Re: 27296417

Date: JUNE 27, 2023

Appeal of Houston, Texas Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant's mother seeks a Certificate of Citizenship to reflect that the Applicant acquired U.S. citizenship from her at birth pursuant to the provisions of section 301(g) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(g).

The Director of the Houston, Texas Field Office denied the Form N-600, concluding that the Applicant's mother did not establish, as required that she had the requisite prior physical presence in the United States to transmit her citizenship to the Applicant at birth. The matter is now before us on appeal.

On appeal, the Applicant's mother submits a statement with copies of her expired U.S. passports and explains that she was not aware of the specific physical presence requirements.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *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.

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). The Applicant was born abroad in [] 2007 to married parents. Her mother is a U.S. citizen born in the United States in [] 1980, and her father is a noncitizen.

Based on the Applicant's date of birth, we consider her citizenship claim under section 301(g) of the Act,¹ which provides in relevant part that a person born abroad of parents one of whom is a noncitizen, and the other a citizen of the United States shall be a national and citizen of the United States at birth if the U.S. citizen parent "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 five years, at least two of which were after attaining the age of fourteen years."

¹ As amended by Act of November 14, 1986, Pub. L. 99-653, 100 Stat. 3655.

Because the Applicant was born abroad, she is presumed to be a noncitizen, and her mother, who filed the instant Form N-600 bears the burden of establishing the Applicant's U.S. citizenship by a preponderance of credible evidence. *Matter of Baires-Larios*, 24 I&N Dec. 467, 468 (BIA 2008).

In support of the Form N-600, and in response to the Director's notice of continuance, the Applicant's mother submitted birth, marriage, and identity documents, as well as her U.S. employment, tax, and residence-related records dated between 2015 and 2023.

The Director determined that while this evidence indicated that the Applicant's mother has been residing in the United States since 2015, it was insufficient to establish that she was physically present in the United States for five years before the Applicant's birth in [] 2007, and that at least two of those years were after she turned 14 years of age in 1994. Thus, the Director concluded that the Applicant's mother did not show she satisfied the requirements for transmission of U.S. citizenship under section 301(g) of the Act.

On appeal, the Applicant's mother states generally that she lived in Chicago with her parents until she was five years old, then moved to Nigeria, and returned to the United States after graduating from college and before the Applicant was born. She claims that although she was present in the United States for extended periods, she was not aware that her U.S. presence prior to the Applicant's birth had to amount to five years with at least two years after she turned 14 years of age. The Applicant's mother explains that she has three other children who were born in the United States, and asks for a favorable decision. In support, she submits copies of her expired U.S. passports issued in 1980 and 2005.

We acknowledge the submission of this additional evidence, but conclude that the record as a whole remains insufficient to establish that the Applicant's mother satisfied the prior U.S. physical presence conditions to confer her citizenship to the Applicant at birth. The exit and entry stamps in the mother's passport issued in May 1981 reflect that she traveled abroad in July 1981, and returned to the United States in September 1982.² This evidence indicates that the mother likely resided and was physically present in the United States for a little over eight months when she was a child (from [] 1980, when she was born, through July 1981, when she departed from the United States); however, it is insufficient to establish how long she was in the country after returning in September 1982 and before she moved to Nigeria at the age of five years, as she claims. Given the mother's departure from the United States in July 1981 and lack of corroborating evidence, such as her medical, residential, or other records to show when and where she lived in the United States before moving to Nigeria in 1985, the passport is adequate only to show that she spent approximately eight months in the country as a child.

Similarly, the mother's passport issued in August 2005 (when she was 24 years old) does not establish how much physical presence she accumulated in the United States after turning 14 years of age in 1994 and before the Applicant was born. Although the passport contains entry and exit stamps from various countries, it reflects only two U.S. entries – in 2010 and 2011 – both after the Applicant's birth in 2007.

² We note that the Applicant's mother submitted photocopies of the biographical page and pages 6-7 of this passport.

As the Applicant's mother does not submit any other evidence pointing to her presence in the United States during the relevant periods, we conclude that she has not met her burden of proof to establish that she satisfied the U.S. physical presence requirements for transmitting her citizenship to the Applicant at birth. She therefore has not shown that the Applicant is a U.S. citizen. As such, the Applicant is ineligible for issuance of a Certificate of Citizenship, and the Form N-600 remains denied.

ORDER: The appeal is dismissed.