



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

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

In Re: 20322721

Date: MAR. 30, 2022

Appeal of Phoenix, Arizona Field Office Decision

Form N-600, Application for a Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he acquired U.S. citizenship at birth under former section 301(a)(7) of the Act, 8 U.S.C. § 1401(a)(7),¹ on [REDACTED] 1977, by birth abroad, in wedlock, to a U.S. citizen father and foreign national mother.

The Director of the Phoenix, Arizona Field Office denied the application, concluding that the Applicant did not show his father had been physically present in the United States or its outlying possessions prior to the Applicant's birth for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years, as required under former section 301(a)(7) of the Act.²

On appeal the Applicant contends that he is eligible for a Certificate of Citizenship based on the evidence he has already presented, asserting that he submitted the same evidence as his brother, who was granted citizenship a year before his filing. In support, he submits his brother's Certificate of Citizenship, date November 12, 2020.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The record reflects that the Applicant was born in wedlock in [REDACTED] 1977 in Mexico. The Applicant's father was deemed a U.S. citizen at birth [REDACTED] 1946) with a Certificate of Citizenship issued on November 3, 1981. The Applicant does not claim, nor does the submitted evidence reflect, that the Applicant's mother became at any time a U.S. citizen. Thus, the Applicant seeks to establish his U.S. citizenship at birth solely through his U.S. citizen father.

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*

¹ This section of the Act was amended by the Act of October 10, 1978, Pub. L. No. 95-432, 92 Stat. 1046.

² The Director also concluded that the Applicant did not derive citizenship under the repealed section 321 of the Act or section 320 of the Act. Because the Applicant does not appear to claim derivative citizenship and does not contest this finding on appeal, we will not address the matter further.

Naturalization Service, 247 F.3d 1026, 1029 n.3 (9th Cir. 2001) (internal quotation marks and citation omitted). Because the Applicant is seeking a Certificate of Citizenship indicating that he acquired U.S. citizenship at birth in 1977 from his father, his citizenship claim falls within the provisions of former section 301(a)(7) of the Act, which stated, in pertinent part, that the following shall be nationals and citizens of the United States at birth:

[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

Finally, 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. *Baires* at 468. 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 issue on appeal is whether the Applicant’s previously provided evidence demonstrates that his father was physically present in the United States prior to his birth in 1977 for at least ten years, no less than five of which were after the father turned 14 years old, to meet the parental physical presence conditions at former section 301(a)(7) of the Act.

The Applicant claimed on his Form N-600 that his father was physically present in the United States starting in 1987. Then, in a response to a request for further evidence, the Applicant submitted three affidavits, tax documentation, and a paid receipt for work performed in the United States. The affidavits claimed that the Applicant’s father relocated to the United States with his family in the 1980’s and the other documentation indicated the father was physically present in the United States from approximately 1982 to 1999. Notably, this evidence does not show the Applicant’s father was physically present in the United States prior to the Applicant’s birth in 1977. Therefore, we will affirm the Director’s decision that the provided evidence is not sufficient to show the Applicant’s father was physically present in the United States prior to the Applicant’s birth in 1977 for at least ten years, no less than five of which were after the father turned 14 years old.³ Accordingly, the evidence is not sufficient to satisfy the parental physical presence conditions at former section 301(a)(7) of the Act and the Applicant is not eligible for a Certificate of Citizenship. His application will remain denied.

ORDER: The appeal is dismissed.

³ We acknowledge the Applicant’s assertions regarding the approval of his brother’s Certificate of Citizenship, however the brother’s application is not before us and when deciding statutory eligibility, we are limited to the information contained in the Applicant’s record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii).