



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

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

In Re: 20580756

Date: MAY 10, 2022

Appeal of Fresno, 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 mother under section 309(c) of the Act, 8 U.S.C. § 1409(c).

The Director of the Fresno, California Field Office denied the Form N-600, concluding that the Applicant did not provide sufficient evidence to establish that his mother was a U.S. citizen when the Applicant was born and that she had previously been physically present in the United States for a continuous period of at least one year, as required by the statute. The Applicant filed a motion to reopen and reconsider. The Director found that the Applicant had submitted sufficient evidence to show that his mother had been physically present in the United States for a continuous period of at least one year prior to the Applicant's birth. However, the Director concluded that the Form N-600 must remain denied because the Applicant had not shown that his mother had acquired U.S. citizenship from her own parents under former section 301(a)(3) of the Act, as claimed, and therefore could not transmit U.S. citizenship to the Applicant.¹ The matter is now before us on appeal.

On appeal, the Applicant asserts that the Director erroneously denied the Form N-600, claiming that he had shown by a preponderance of the evidence that his mother had acquired U.S. citizenship from her parents prior to his birth.² The Applicant includes additional evidence in the form of U.S. government-certified copies of documents relating to a maternal great-grandparent.

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

¹ In addition to her determination regarding the lack of evidence of I-Q-B's U.S. citizenship, the Director concluded that the Applicant had not provided sufficient evidence to show that various other claimed maternal family ancestors had acquired and transmitted U.S. citizenship for purposes of this Form N-600. We will reserve those issues in our decision on any additional U.S. citizenship determinations in this matter because, as will be discussed, the Form N-600 cannot be approved based on the contradictory evidence regarding the actual identity of the Applicant's mother and her parents.

² The Director also concluded that the Applicant had not shown that his mother had acquired U.S. citizenship from her father, an individual claimed to be named P-Q-, because the Applicant had not established that P-Q- had been physically present in the United States for a period of at least 10 years, no less than five of which were after the age of 14 years. *See* former section 301(a)(7) of the Act. As the Applicant does not dispute this portion of the Director's decision on appeal, we will not address it further. Moreover, for the reasons discussed below, the record contains contradictory information regarding the Applicant's mother such that he has not shown that P-Q- is in fact the Applicant's maternal grandfather, as claimed.

I. LAW

Birth certificate evidence shows that the Applicant was born in Mexico in [] 1981 to unmarried parents. According to the Applicant, his father was a Mexican citizen and his mother, although born out of wedlock in Mexico in 1963, had acquired U.S. citizenship from her own parents. Consequently, the Applicant seeks to establish that he has acquired U.S. citizenship solely through his mother. .

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).

As the Applicant claims that he was born out of wedlock to a U.S. citizen mother in Mexico in [] 1981, his citizenship claim falls within the provisions of section 309(c) of the Act, which provides, in pertinent part:

[A] person born, after December 23, 1952, outside the United States and 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 a foreign national and bears the burden of establishing his claim to U.S. citizenship by a preponderance of credible evidence. *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. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The issue before us is whether the Applicant has shown that he acquired U.S. citizenship from his mother by first showing that his mother was a U.S. citizen at the time of her claimed date of birth in [] 1963. In claiming this, the Applicant contends that former section 301(a)(3) of the Act applies to her birth.

Former section 301(a)(3) of the Act provides that the following will be U.S. citizens at birth:

a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person

Moreover, because the Applicant claims that his mother, I-Q-, was born out of wedlock in [] 1963, old section 309(a) of the Act legitimation conditions also apply to her citizenship claim.

To establish acquisition of U.S. citizenship through his mother under section 309(c) of the Act, the Applicant first must show that prior to his birth in [redacted] 1981, his mother: (1) was a U.S. citizen; (2) was not married; and (3) had been physically present in the United States for a continuous period of at least one year.

As part of his initial submission with the Form N-600, the Applicant claimed that his mother was an individual named I-Q-B- who was born out of wedlock in Mexico in [redacted] 1963. The Applicant also claimed that his maternal grandparents were named C-B- and P-Q-, that they subsequently married in California when C-B- became sick, and that this action legitimated I-Q-B-. The Applicant initially included a birth registration that shows an individual named I-Q-B- was born in Mexico in [redacted] 1963 to a mother named C-B- and a father named P-Q-, and a marriage certificate showing that individuals named C-B- and P-Q- entered into marriage in [redacted] California in [redacted] 1968. The record shows that the Applicant's mother, I-Q-B-, became a lawful permanent resident of the United States in January 1983; however, the Applicant claims that she already had acquired U.S. citizenship at birth from her own parents pursuant to former section 301(a)(3) of the Act.

As correctly observed in the Director's decision, the record does not contain sufficient evidence to show that the Applicant has a mother who derived U.S. citizenship from both of her parents. In her decision, the Director listed and discussed numerous documents that the Applicant had provided and that the Director had considered in reaching her conclusion. On appeal, the Applicant submits government-certified copies of some immigration documents relating to a maternal family member; however, these documents are not probative because, in addition to the deficiencies described in the Director's decision, the record provided by the Applicant is so contradictory that it is not possible to conclude that he is related to the extended family members through whom he claims U.S. citizenship. Consequently, based on the Director's review and discussion of the extensive evidence before her, we adopt and affirm the Director's decision with the comments below. *See Matter of P. Singh*, Attorney, 26 I&N Dec. 623 (BIA 2015) (citing *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case)).

We also note that the Applicant's evidence regarding the identity of his mother contains contradictions such that we cannot conclude the mother named on his birth certificate is the same individual through whom he claims to have acquired U.S. citizenship. For example, on the Form N-600 and the Derivative Citizenship Table that he initially provided to depict his maternal family tree, the Applicant claimed that his mother was an individual named I-Q-B-³ who was born in Mexico on [redacted] 1963. The Applicant also provided a 2001 death certificate for his mother showing that her date of birth is [redacted] 1963. The Applicant's own birth certificate similarly reflects that his mother was an individual named I-Q-B- who was 17 years of age when the Applicant was born on [redacted] 1981. However, according to the certified copy of the 1974 Mexican birth registration that the Applicant provided to establish his mother's identity and relationship to her own purported U.S. citizen parents, I-Q-B- was born on [redacted] 1962, and not 1963. Based on this discrepancy in the year

³ Names withheld to protect the individuals' identities.

of birth, we cannot conclude that the Applicant's mother is the individual named on the certified 1974 birth registration.

Moreover, other information on the certified 1974 birth registration contradicts the Applicant's own evidence and claims regarding the identity of his mother's parents and her U.S. citizenship. Specifically, the Applicant has continuously maintained that I-Q-B- acquired U.S. citizenship at birth through her own mother and father, named C-B- and P-Q-, respectively. The certified 1974 birth registration that the Applicant included for the individual named I-Q-B- does in fact reflect that her mother was named C-B- and her father was named P-Q-. However, the certified 1974 birth registration shows that C-B- appeared in person before an official of the civil registry in the town of [REDACTED] Mexico on February 13, 1974, and signed I-Q-B-'s birth registration, thereby late-registering I-Q-B-'s birth, whereas the Applicant claimed that C-B- had died in 1973, and included a certified death certificate showing C-B- died in [REDACTED] Mexico on June 2, 1973. If C-B- died in June 1973, then she could not have late-registered her daughter's birth and signed the registration in person in February 1974. The Applicant must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies such as these may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

Consequently, in addition to the Director's decision regarding the insufficiency of the evidence on his mother's U.S. citizenship, we also conclude that because the Applicant's evidence is contradictory and inconsistent, he has not established the identity of his mother, including whether or not she was an individual named I-Q-B- who was born in 1962 or 1963, and whether or not she had parents named C-B- and P-Q- through whom the Applicant can claim to have acquired U.S. citizenship. For these reasons, the Applicant has not shown that his mother acquired U.S. citizenship from her own parents.

III. REQUEST FOR ORAL ARGUMENT

Although the Applicant seeks oral argument based on the claim that his situation is uniquely complicated, the Director's determination that the Applicant had not shown that he had a U.S. citizen mother is based on a review of the record and the extensive evidence provided by the Applicant. Our decision also based on the evidence the Applicant provided to the Director, including the contradictory information provided regarding the actual identity of his mother and her parents, the Director's decision, and a review of the evidence provided on appeal.⁴ Consequently, the Applicant has been afforded the opportunity below and on appeal to provide sufficient documentary evidence of eligibility, and the request for oral argument is denied.

⁴ Because the Applicant has provided contradictory evidence regarding the identities of the Applicant's mother and, therefore, her parents, the evidence provided on appeal that purports to relate to the mother's grandfather is not probative.

IV. CONCLUSION

In view of the above, the Applicant has not demonstrated that, prior to his birth, his mother was a U.S. citizen through whom he acquired U.S. citizenship pursuant to section 309(c) of the Act.

ORDER: The appeal is dismissed.