



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

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

In Re: 25234826

Date: APR. 14, 2023

Appeal of Harlingen, Texas Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant, who was born in Mexico in 2005, seeks a Certificate of Citizenship to reflect that she acquired U.S. citizenship at birth from her biological mother pursuant to section 309(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1409(c). The Director of the Harlingen, Texas Field Office (Director) denied the application, concluding that the record did not establish that the Applicant's U.S. citizen mother was physically present in the United States for the required period. The matter is now before us on appeal.

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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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). The record reflects that the Applicant was born in [REDACTED] 2005 in Mexico to unmarried parents. The Applicant seeks a Certificate of Citizenship indicating that she acquired U.S. citizenship at birth from her mother pursuant to section 309(c) of the Act. To establish acquisition of U.S. citizenship under that section, the Applicant must show that she was born out of wedlock, that her mother had the nationality of the United States at the time of her birth, and that her mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year before the Applicant's birth.

II. ANALYSIS

The Director determined that the Applicant had not shown that her U.S. citizen mother, N-G-G,¹ was physically present in the United States for a continuous period of one year before the Applicant's birth, as section 309(c) of the Act requires. The Director noted that although the Applicant submitted

¹ We use initials to protect identities.

affidavits from people claiming that N-G-G- had resided in the United States, the affidavits lacked details or information to show that the writers had personal knowledge of the events, and the record did not contain corroborating evidence. Also, the Director concluded that the other evidence in the record only established N-G-G-'s presence in the United States on a particular date rather than for the period of time required by section 309(c) of the Act.

On appeal, the Applicant submits additional affidavits from people claiming personal knowledge of N-G-G-'s physical presence in the United States in the 1970s and 1980s. She also provides her grandmother's marriage and death certificates, as well as social security documents relating to her grandfather. As the Applicant has provided new evidence regarding her mother's presence in the United States that the Director has not had the opportunity to review, we will remand the matter to the Director to consider this evidence in the first instance.

Additionally, we note that the record does not clearly establish the date N-G-G- became a U.S. citizen. Therefore, the evidence does not show whether N-G-G- was a U.S. citizen at the time of the Applicant's birth in 2005 such that the Applicant could have acquired citizenship from her pursuant to section 309(c) of the Act. The Applicant claims that N-G-G- acquired citizenship from the Applicant's grandfather, who became a naturalized U.S. citizen in October 1968, but the only proof of N-G-G-'s citizenship is her U.S. passport issued in 2017. The record before us does not contain N-G-G-'s passport application or any other evidence of the date she became a citizen. The Applicant also submits on appeal a Certificate of Citizenship for her grandmother (N-G-G-'s mother), issued in 1985, but its relevance to the Applicant's claims is not clear. The evidence does not clearly show when or through whom N-G-G- acquired U.S. citizenship. In addition to considering the evidence of physical presence mentioned above, the Director should consider the new evidence in the record to determine when N-G-G- became a U.S. citizen and whether she was a U.S. citizen at the time of the Applicant's birth, as required by section 309(c) of the Act.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.