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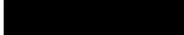
U.S. Department of Homeland Security

Citizenship and Immigration Services

**Identifying data deleted to  
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invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536

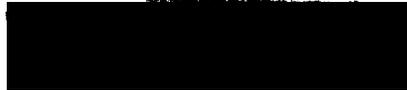


FILE:  Office: Philadelphia

Date:

OCT 8 - 2003

IN RE: Applicant:



APPLICATION: Application for Certificate of Citizenship under section 303 of  
the Immigration and Nationality Act, 8 U.S.C. § 1403

IN BEHALF OF APPLICANT: Self-represented

**PUBLIC COPY**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case.  
Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Acting District Director, Philadelphia, Pennsylvania, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The AAO has reopened the proceedings for further review on Service motion. The previous decisions will be withdrawn and the application granted.

The applicant was born in Panama on July 10, 1952. The applicant's father [REDACTED] was born in the United States in October 1911. The applicant's mother, [REDACTED] was born in Panama in December 1926 and became a naturalized U.S. citizen in December 1979. [REDACTED] never married each other. On October 27, 1960, the applicant's mother married [REDACTED] who adopted the applicant on October 31, 1960. The applicant was lawfully admitted for permanent residence on July 28, 1962, and again on September 9, 1966, to reside with his mother and adoptive father in the United States.

In its dismissal of May 21, 2001 the AAO reviewed the applicant's appeal under section 205 of the Nationality Act of 1940 (NA 1940) based upon the applicant's claim that he acquired United States citizenship through his father as a child born out of wedlock or as a legitimated child. The AAO found that the applicant did not provide sufficient evidence to establish the blood relationship between himself and [REDACTED]. In particular, it found that the baptismal certificate provided as evidence of the relationship had a different father's name and no explanation was provided as to why an original birth certificate could not be provided.

On Service motion, the AAO has determined that the application for a certificate of citizenship in the present case should be examined under section 303 of the INA, 8 U.S.C. § 1403 which states:

(a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

The applicant is presently the plaintiff in a legal case before the United States District Court, in the District of New Jersey, against the INS (now CIS). The applicant seeks a judicial order determining that he is a United States citizen. In the court

proceedings the applicant provided additional documentation to establish that Vearon Widner was his father.

A Panamanian adoption decree states that the birth certificate of [REDACTED] (the applicant), was presented to the Juvenile Court in Panama on October 31, 1960, and established that the applicant was born in the city of Panama on July 10, 1952 to [REDACTED]. The adoption decree indicates that the applicant's birth certificate was recorded at [REDACTED]. The decree states further that, the applicant was adopted by [REDACTED] statement made at the juvenile court, gave formal consent that [REDACTED] could adopt his son, [REDACTED]. The decree additionally states that [REDACTED] was notified of the adoption decision, and that he signed a statement that he was satisfied with the decision.

With respect to the adoption decree, a November 18, 1989 letter from the Library of Congress, Hispanic Law Division, written by senior legal specialist, [REDACTED] states that the applicant's adoption was duly authorized by the Panama Juvenile Court on October 31, 1960. The letter states further on page 3, that:

The Juvenile Court had considered different documents among which there were the children's birth certificates; nothing is said about them not having acknowledged who the natural father was, on the contrary, it appears obvious that the court accepted it as a fact that the individual who had given his consent as the natural father for adoption purposes, was such.

In addition to the above documents, the record contains a letter from the U.S. Department of Defense Education Activity, Records Manager, [REDACTED] dated March 22, 2002, in which an official copy of the applicant's student records from the Canal Zone Government, Division of Schools was included. The student record indicates that the applicant's name was [REDACTED] that he was born in Panama City, and that his father was [REDACTED] a U.S. citizen. The student record reflects further that the applicant was adopted on October 31, 1960, and that his name was subsequently changed to Roberto North.

The evidence in the record also contains a document issued by the Headquarters United States Army Caribbean, Personnel Department, and dated July 9, 1957, stating that [REDACTED] is the son and dependent of [REDACTED].

Moreover, the record includes several affidavits from family members and friends addressing discrepancies in some of the evidentiary documents and indicating that the applicant was born in Panama City, and that he is the natural son of [REDACTED] Widner. It is also noted that the record contains evidence that

the applicant's brother obtained a U.S. passport, presumably based on evidence similar to that submitted in the applicant's case. The validity and probative value of this evidence will not be addressed, however, as the above documents establish by a preponderance of the evidence that the applicant is the son of [REDACTED]

The record also establishes by a preponderance of the evidence that [REDACTED] is a U.S. citizen, and that he worked for the U.S. Government in the Panama Canal Zone.

The record contains a copy of [REDACTED] delayed certificate of birth, indicating that [REDACTED] was born on October 17, 1911, in Cullman County, Alabama. Although it is noted that the birth certificate was not issued to [REDACTED] until September 28, 1943, it is also noted that this date was well before the applicant's birth, and thus the issuance of the delayed birth certificate was clearly not for purposes of the applicant's U.S. citizenship claim. Moreover, the discrepancy in the spelling of [REDACTED] last name (Widener) on the birth certificate is overcome by the numerous additional documents contained in the record indicating that his last name is [REDACTED] and that the two names are used for the same individual. This additional evidence includes [REDACTED] U.S. Civil Service retirement benefits application, which contains biographical information and indicates that [REDACTED] worked for the U.S. Army in the Canal Zone, as well as several pay stubs from [REDACTED] [REDACTED] work in the Canal Zone. The evidence additionally includes a copy of [REDACTED] appointment affidavit from the U.S. government, as well as [REDACTED] death certificate and affidavits on the subject. The differing spelling is further explained by an affidavit from [REDACTED] nephew in which he explains the family history of the spelling of the name.

The above evidence overcomes the issues regarding the baptismal certificate and the lack of an original birth certificate raised in the May 21, 2001 AAO dismissal. The evidence establishes that the applicant was born in the Panama Canal Zone and that his father was a U.S. citizen who worked for the U.S. Government in Panama.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. It is concluded that, based on the evidence contained in the record, the applicant has shown by a preponderance of the evidence that he meets the requirements set forth in both sections 303(a) and 303(b) of the Act.

**ORDER:** The previous decisions are withdrawn and the application is granted.