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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
Washington, DC 20529



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

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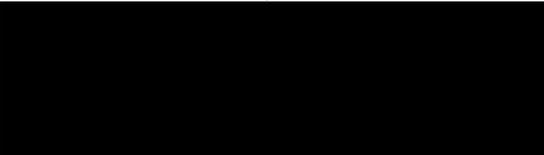
FILE: [REDACTED] Office: NEW YORK, NEW YORK

Date: AUG 05 2005

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to § 301(a)(7) of the former Immigration and Nationality Act; 8 U.S.C. § 1401(a)(7).

ON BEHALF OF APPLICANT:



**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office 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.

*Robert P. Wiemann*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on August 18, 1972 in Yemen. The applicant's father was born in Yemen in 1943, and he became a naturalized U.S. citizen in 1962. The applicant's mother is not a U.S. citizen. The applicant's parents married in 1970 in Yemen, and the applicant received a U.S. passport in Yemen in 1989. He entered the United States in 1989 using his U.S. passport, and he has resided in this country since that time. The applicant seeks a certificate of citizenship pursuant to § 301(a)(7) of the former Immigration and Nationality Act (the former Act); 8 U.S.C. § 1401(a)(7), based on the claim that he acquired U.S. citizenship at birth through his father.

The district director denied the application for lack of prosecution. The district director noted that the applicant provided results of a DNA examination and explained why he did not have a U.S. birth certificate for children born abroad, but he did not submit copies of evidence used to obtain his U.S. passport in Yemen. The AAO notes that if the applicant fails to submit all the requested evidence, a decision is rendered based on the existing record, pursuant to 8 C.F.R. § 103.2(b)(ii). On appeal, counsel emphasizes the sufficiency of the documentation provided and asserts that the applicant qualifies for a certificate of citizenship. The AAO finds that the applicant has submitted sufficient evidence to establish that he meets the requirements for a certificate of citizenship set forth § 301(a)(7) of the former Act, particularly because the record contains a copy of the applicant's unexpired U.S. passport.

The AAO finds that the applicant's passport establishes his U.S. citizenship. In *Matter of Villanueva*, 19 I&N, Dec. 101 (BIA 1984), the Board of Immigration Appeals held that, unless void on its face, a valid U.S. passport issued to an individual as a citizen of the United States is not subject to collateral attack in administrative immigration proceedings, but constitutes conclusive proof of such person's U.S. citizenship. The AAO therefore concludes that the applicant is eligible for a certificate of U.S. citizenship.

On appeal, counsel submits Notices of Entry of Appearance (G-28), DNA Parentage Test Reports, and other documentation for all of the applicant's siblings. Each application, however, must be considered separately. This decision on appeal pertains solely to the above-named applicant.

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. The applicant has met his burden. The appeal will therefore be sustained.

**ORDER:** The appeal is sustained.