

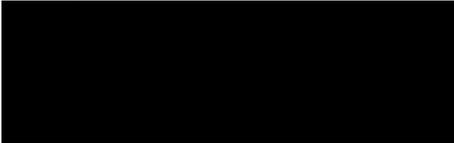
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

ER



FILE:



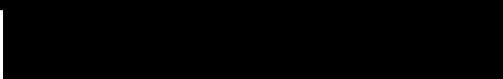
Office: NEW YORK, NEW YORK

Date:

AUG 05 2005

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 201(g) of the Nationality Act of 1940; 8 U.S.C. (1940 Ed.) § 601(g).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director New York, New York. The matter 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 4, 1936, in Ireland. The applicant's mother, [REDACTED] was born in Ireland on May 12, 1895, and she became a naturalized U.S. citizen on January 18, 1932. The applicant's father, [REDACTED] was not a U.S. citizen. The record reflects that the applicant's parents married in Ireland on August 18, 1932. The applicant seeks a certificate of citizenship pursuant to section 201(g) of the Nationality Act of 1940 (the Nationality Act, now known as section 301(g) of the Immigration and Nationality Act (the Act)), based on the claim that she derived U.S. citizenship at birth through her mother.¹

The district director obtained a June 17, 1959, letter from the U.S. District Court in New York, New York stating that the applicant's mother had lost her U.S. citizenship since the date of her naturalization. The district director determined accordingly that the applicant had failed to establish that her mother was a U.S. citizen at the time of the applicant's birth, and the application was denied.

On appeal, the applicant asserts that she possesses a valid U.S. passport, which constitutes proof of her U.S. citizenship.

The AAO notes that the New York District Court letter does not state when the applicant's mother lost her citizenship. Nor does the letter state the basis of its determination that the applicant's mother lost her U.S. citizenship. The record contains no other evidence to demonstrate when or how the applicant's mother lost her U.S. citizenship. Moreover, the record contains a U.S. passport issued to the applicant on June 17, 1959, the same date that the New York, U.S. District Court letter was written. The record additionally contains a valid U.S. passport issued to the applicant on July 23, 2001.

In *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984), the Board of Immigration Appeals (Board) held that a valid U.S. passport is conclusive proof of U.S. citizenship. Specifically, *Matter of Villanueva* stated at 102-104 that:

¹ Section 201(g) of the Nationality Act stated that:

A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reached the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

Prior to enactment of 22 U.S.C. 2705, a United States passport was regarded only as prima facie evidence of United States citizenship. Now, however, United States passports are given the same weight for proof of United States citizenship as certificates of naturalization or citizenship.

....

Accordingly, we hold that unless void on its face, a valid United States 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 United States citizenship.

22 U.S.C. § 2705 states, in pertinent part, that:

The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General [now, Secretary, Department of Homeland Security] or by a court having naturalization jurisdiction:

- (1) A passport, during its period of validity (if such period is the maximum period authorized by law), issued by the Secretary of State to a citizen of the United States.

The AAO notes further that 8 C.F.R. § 341.2(a) states in pertinent part that:

- (1) An application received at a Service [now U.S. Citizenship and Immigration Services, CIS] office having jurisdiction over the applicant's residence may be processed without interview if the Service [CIS] officer adjudicating the case has in the Service [CIS] administrative file(s) all the required documentation necessary to establish the applicant's eligibility for U.S. citizenship, or if accompanied by one of the following:

....

- (ii) An unexpired United States passport issued initially for a full five/ten-year period to the applicant as a citizen of the United States

Black's Law Dictionary, 7th Edition, states that a document is "void on its face", or "facially void", when it is "patently void upon inspection of its contents."

The present record contains copies of two U.S. passports issued to the applicant. The first passport, No. 91239, states that the applicant is a U.S. citizen and was issued by the U.S. Department of State (DOS) on June 17, 1959 in Ireland. The passport expired on August 4, 1959. The second passport, [REDACTED] states that the applicant has U.S. nationality, and was issued by the DOS National Passport Center on July 23, 2001. The passport is valid for ten years until July 22, 2011.

The AAO finds that the record contains no evidence to indicate that the applicant's 1959 or 2001, passports were invalid or patently void when issued to the applicant. Instead, the passports appear to be valid U.S. passports issued to the applicant as a citizen of the United States. Moreover, the AAO notes that the applicant's July 2001 issued passport was issued for a full ten-year period and that it continues to be valid.

Accordingly, the AAO finds that pursuant to the principles set forth in *Matter of Villanueva, supra*, CIS has no authority to go behind the DOS decision to grant the passport, and no authority to otherwise attempt to collaterally attack the validity of the applicant's citizenship. See *Matter of Villanueva, supra*. See also, *Matter of Madrigal-Calvo*, 21 I&N Dec. 323 (BIA 1996) and *Okabe v. INS*, 671 F.2d 863 (5th cir. 1982). Because the applicant has established conclusively that she is a U.S. citizen, the AAO finds that the remaining issues presented in this case need not be addressed. The appeal will therefore be sustained.

ORDER: The appeal is sustained.