



U.S. Citizenship  
and Immigration  
Services

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*22*

FILE:



Office: EL PASO, TEXAS

Date: **JAN 31 2005**

IN RE:

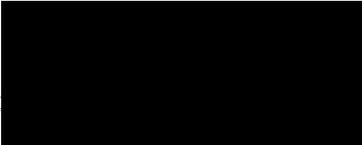
Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 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 El Paso, Texas. 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 January 18, 1963, in Mexico. The applicant's mother, [REDACTED] was born on [REDACTED] in Texas, and she was a United States (U.S.) citizen. The applicant's father, [REDACTED] was born on March 10, 1922, in Mexico, and he was not a U.S. citizen. The applicant's parents married on July 6, 1955. The applicant seeks a certificate of citizenship pursuant to section 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 mother.

The district director concluded that the applicant had failed to establish that his mother [REDACTED] met the physical presence requirements set forth in section 301(a)(7) of the former Act. The application was denied accordingly.

On appeal, counsel asserts that the evidence establishes that [REDACTED] met the physical presence requirements set forth in the Act. Counsel additionally asserts that the applicant's sister obtained a certificate of citizenship based on identical evidence to that of the applicant. Counsel asserts further that the U.S. Department of State (DOS) approved a U.S. passport application based on the applicant's evidence, and that the applicant possesses a valid U.S. passport which constitutes conclusive evidence of his citizenship under *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984).

Section 301(a)(7) of the former Act states in pertinent part that:

The following shall be nationals and citizens of the United States at birth: . . . a person born outside the geographical limits of the United States . . . of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States . . . for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years.

The Board of Immigration Appeals (Board) held in *Matter of Villanueva, supra*, that a U.S. passport is conclusive proof of U.S. citizenship, and 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."

The present record contains the following evidence relating to the applicant's U.S. citizenship:

A DOS computer passport data page reflecting, amongst other things, that that the DOS approved an Application for Registration for the applicant on May 18, 1967, pursuant to section 301(a)(7) of the former Act, and reflecting further that the applicant possesses U.S. passport number CI230803.

An application for a U.S. passport, reflecting that the American Consulate, General, [REDACTED] Mexico, approved a U.S. passport for the applicant on August 12, 1981.

A copy of the biographical information page of a U.S. passport issued to the applicant from August 2, 1993 through August 1, 1994. The American Consulate General, [REDACTED]

██████████ Mexico, notes that the passport was issued to replace a previously issued, stolen passport.

A copy of the applicant's U.S. passport, number ██████████ issued on November 14, 2002 through November 13, 2003. The passport contains a notation that it was issued to replace a previously issued passport that was mutilated.

According to *Black's Law Dictionary*, 7<sup>th</sup> Edition, a document is "void on its face", or "facially void", when it is "patently void upon inspection of its contents." The AAO notes that if the applicant's passport is not "void on its face", and is, instead, a valid U.S. passport issued to the applicant as a citizen of the United States, the Immigration and Naturalization Service (Service, now Citizenship and Immigration Service, CIS) has no authority to go behind the DOS decision to grant the passport or to otherwise attempt to collaterally attack the validity of the passport or 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 (5<sup>th</sup> cir. 1982).

The AAO notes that the applicant's passport was valid when he filed his citizenship application on February 21, 2003, and when the district director issued his decision on October 1, 2003. Moreover, the AAO finds that the record contains no evidence to indicate that the applicant's passport was invalid when it was issued to the applicant, and the record contains no evidence to indicate that the applicant's passport is "void on its face". Accordingly, the AAO finds that the applicant has established by a preponderance of the evidence that he is a U.S. citizen. The remaining issues presented in this case need therefore not be addressed and the applicant's appeal will be sustained.

**ORDER:** The appeal is sustained.