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U.S. Citizenship
and Immigration
Services

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ER

FILE:



Office: EL PASO, TEXAS

Date: JUN 16 2005

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under § 301(a)(7) of the former Immigration and Nationality Act, 8 U.S.C. § 1401.

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, El Paso, Texas, on April 2, 2004, and was subsequently reopened on May 24, 2004. On October 15, 2004, the district director affirmed his previous decision, and 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 in Mexico on November 20, 1979. The applicant's father was born in Texas, and he is a U.S. citizen. The applicant's mother's name does not appear on his birth certificate, and the record contains no evidence that she was a U.S. citizen. The record also contains no evidence regarding any marriage between the applicant's parents. The applicant seeks a certificate of citizenship pursuant to § 301 of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1401, based on the claim that he acquired U.S. citizenship at birth through his U.S. citizen father.

The district director concluded the applicant had failed to establish a blood relationship between himself and his father, and denied the application accordingly. The applicant submitted a timely Form I-290B on November 9, 2004 and indicated that he wished an extension of ninety days in which to submit the results of DNA tests he claimed to have undergone on November 4, 2004. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete. In a brief letter attached to the I-290B, the applicant writes that his mother's name does not appear on his birth certificate, because she gave him away when he was born. He also notes that his grandmother passed away in 2003.

The AAO notes that the record contains a copy of the applicant's U.S. passport number [REDACTED] issued by the U.S. consulate in [REDACTED] Mexico on May 2, 2000. In *Matter of Villanueva*, 19 I&N, Dec. 101 (BIA 1984), the Board of Immigration Appeals (the Board) 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 United States citizenship. The record contains no indication that the applicant's passport is void or otherwise invalid. Therefore, the AAO concludes that the record establishes that the applicant is a U.S. citizen and is entitled to a certificate of citizenship.

The burden of proof in this proceeding rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has sustained that burden and has established eligibility for a certificate of citizenship.

ORDER: The appeal is sustained.