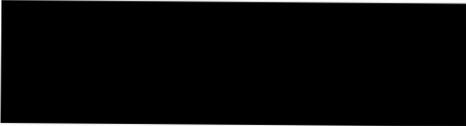




U.S. Citizenship  
and Immigration  
Services

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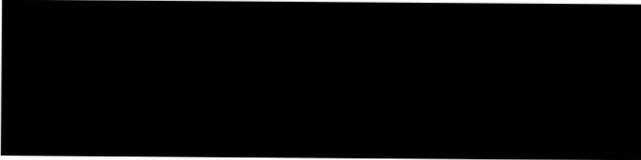
FEB 06 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:  
WAC 06 114 51749

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. 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 October 1, 1981 in Yemen. The applicant's father was born in Yemen, but he became a naturalized U.S. citizen in 1971, ten years prior to the applicant's birth. The applicant's mother is a lawful permanent resident of the United States. The record reflects that the applicant's parents were married prior to her birth, and her father is now deceased. 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 she acquired U.S. citizenship at birth through her father. The director determined that the evidence did not establish the applicant's eligibility for U.S. citizenship; however, the AAO agrees with counsel's assertions on appeal that the applicant's U.S. passport and Consular Report of Birth Abroad to a U.S. citizen establishes that she is U.S. citizen.

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:

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*, 7<sup>th</sup> 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 a copy of U.S. passport number 301383520 issued to the applicant on January 28, 2002 at the Charleston Passport Center. The passport is valid for ten years until January 27, 2012. The AAO finds no evidence to indicate that the applicant's passport is invalid or was patently void when issued. 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 (5<sup>th</sup> 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.

■