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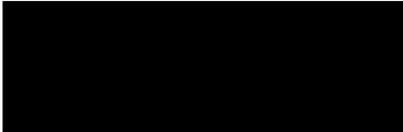
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

EL

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAR 02 2007
WAC 06 063 52406

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 321 of the Immigration and Nationality Act; 8 U.S.C. § 1432.

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center and 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 September 26, 1982. The applicant's father, Agapito Torres, became a naturalized U.S. citizen on August 21, 1997. The applicant seeks a certificate of citizenship under section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432, based on the naturalization of his father.

The director denied the Form N-600, Application for Certificate of Citizenship, after determining that the record did not establish that the applicant met the requirements of section 320 of the Act, 8 U.S.C. § 1431. However, section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), which took effect on February 27, 2001 and benefits only those persons who had not yet reached their eighteenth birthdays as of that date. Because the applicant was already eighteen years old on February 27, 2001, he is not eligible for consideration under the CCA. Instead, the statutory provisions applicable to the applicant's eligibility for a certificate of citizenship based on his father's naturalization are found in former section 321 of the Act, 8 U.S.C. § 1432.

In the instant case, however, an exploration of the applicant's eligibility for a certificate of citizenship under the above referenced section of law is unnecessary as the record contains a copy of the face page of the U.S. passport issued to the applicant on June 15, 2001 by the U.S. Department of State. The passport, No. 300636995, is valid until June 14, 2011.

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, 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 record offers proof that the applicant is the holder of a valid U.S. passport issued to the applicant as a citizen of the United States. Pursuant to the principles set forth in *Matter of Villanueva, supra*, CIS has no authority to go behind the Department of State 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). The applicant has established conclusively that he is a U.S. citizen. Accordingly, the appeal will be sustained.

The regulation at 8 C.F.R. § 341.2(c) states that the burden of proof shall be on the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has met his burden in this proceeding.

ORDER: The appeal is sustained.