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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAR 02 2007

WAC 06 098 50285

IN RE:

Applicant:



APPLICATION:

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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 June 15, 1967. The applicant's father, [REDACTED] was born on August 14, 1925 in Santa Ana, California and married the applicant's mother on October 5, 1978. The applicant seeks a certificate of citizenship under section 301(a)(7) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(a)(7), based on her birth to a U.S. citizen father.

The director denied the Form N-600, Application for Certificate of Citizenship, after determining that the record did not establish that the applicant's father had satisfied the residency requirements of section 301(a)(7) of the Act.

On appeal, the applicant submits a second copy of the face page of what appears to be a valid U.S. passport (No. 701836793) issued to her on June 13, 2001 by the U.S. Department of State and valid until June 12, 2011. She asserts that her passport establishes that the United States Government has already recognized her as a 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, 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 her 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 she 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 her burden in this proceeding.

ORDER: The appeal is sustained.