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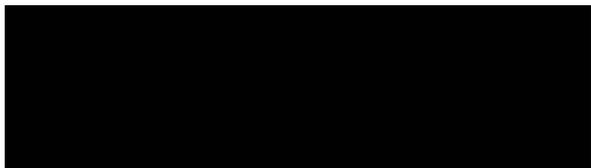
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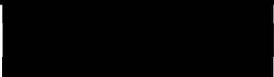
U.S. Citizenship
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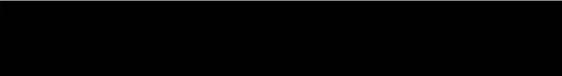
Office: NEW YORK, NEW YORK

Date:

MAR 18 2008

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 1993 of the Revised Statutes of the United States, as amended by the Act of May 24, 1934.

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 Form N-600, Application for Certificate of Citizenship (N-600 application) was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the application will be approved.

The record reflects that the applicant was born out of wedlock on July 24, 1937, in the Dominican Republic. The applicant's mother [REDACTED] was born in the Commonwealth of Puerto Rico on June 20, 1901. The record contains no information relating to the applicant's father. The applicant presently seeks a certificate of citizenship pursuant to section 1993 of the Revised Statutes of the United States, as amended by the Act of May 24, 1934, 48 Stat. 797 (Section 1993 of the Revised Statutes), based on the claim that he acquired U.S. citizenship at birth through his mother.

The district director determined that the applicant had failed to establish his mother was a U.S. citizen at the time of his birth, or that she lived in Puerto Rico and became a U.S. citizen on January 13, 1941. The district director determined that the applicant therefore did not establish citizenship under sections 301(g) or 302 of the Immigration and Nationality Act of 1952, as amended (the Act), 8 U.S.C. §§ 1401(g) and 1402. The N-600 application was denied accordingly.

On appeal, the applicant asserts that he misunderstood U.S. Citizenship and Immigration Service (CIS) questions about his mother's residence in Puerto Rico. He asserts that his mother traveled between the Dominican Republic and Puerto Rico before, and after, January 13, 1941, and that she is thus a U.S. citizen

The regulations provide at 8 C.F.R. § 341.2(c) that the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. Under the preponderance of evidence standard, it is generally sufficient that the proof establish that something is probably true. *Matter of E-M*, 20 I&N Dec. 77 (Comm. 1989.)

In the present matter, the AAO must determine whether the applicant's mother, born on June 20, 1901, in the Commonwealth of Puerto Rico, was a U.S. citizen at the time of the applicant's birth. The AAO must then determine whether the applicant acquired citizenship through his mother pursuant to citizenship statutes in effect at the time of his birth.

The AAO finds that the applicant has established by a preponderance of the evidence that his mother was a U.S. citizen prior to his birth.

The Act of April 12, 1900, 31 Stat. 77, granted Puerto Rican citizenship and U.S. national status to certain Puerto Ricans, by providing at section 7 that:

[A]ll inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April, nineteen hundred

“The right of election to preserve Spanish nationality was given only to Spanish subjects who were natives of the Peninsula [Spain] . . . persons who were born in Porto Rico, being natives of the island, could not, and were not

intended to be considered as coming within the above-mentioned class” *In the Matter of H--*, 3 I&N Dec. 174 (BIA Central Office, 1948.)

The Act of March 2, 1917, Pub. L. 64-368, subsequently granted U.S. citizenship status to all Puerto Rican citizens, absent a declaration before an appropriate district court to retain Puerto Rican citizenship. *See* Act of March 2, 1917. *See also, In the Matter of H--*, *supra*. Specifically, the Act of March 2, 1917 provided at section 5, that:

[A]ll citizens of Porto Rico, as defined by section seven of the Act of April twelfth, nineteen hundred . . . are hereby declared, and shall be deemed and held to be, citizens of the United States. . . .

The Act of June 27, 1934, Pub. L. 73-477, provided further at section 5b that:

All persons born in Puerto Rico on or after April 11, 1899 (whether before or after the effective date of this Act) and not citizens, subjects, or nationals of any foreign power, are hereby declared to be citizens of the United States. . . .

Section 302 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1402, further extended U.S. citizenship status to all persons born in Puerto Rico on or after January 13, 1941, and :

All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act. . . .

In the present matter, the evidence in the record establishes that the applicant’s mother obtained Puerto Rican citizenship status at birth pursuant to the Act of April 12, 1900. She subsequently obtained U.S. citizenship status in 1917, under the Act of March 2, 1917. A Commonwealth of Puerto Rico birth certificate reflects that [REDACTED] was born on the island of Puerto Rico on June 20, 1901. A document from the Dominican Republic Secretary of State of Interior and Police, General Director of Immigration reflects that [REDACTED] entered the Dominican Republic six years later, on May 2, 1907. The Dominican Republic immigration document reflects further that at the time of her entry into the Dominican Republic, [REDACTED]’s nationality was listed as U.S.A. The record contains no indication that [REDACTED] or her parents were Spanish subjects. The record also contains no indication that [REDACTED] became a citizen of the Dominican Republic, or any other country, and the record contains no indication that [REDACTED] declared herself to be a Puerto Rican citizen rather than a U.S. citizen on or after March 2, 1917.

The AAO notes that section 302 of the Act does not divest the applicant’s mother of her U.S. citizenship status. Rather, section 302 specifies conditions under which U.S. citizenship status may be extended to persons born in Puerto Rico between April 11, 1899 and January 13, 1941, who have not already obtained citizenship status through a previous Act. In the present matter, the evidence demonstrates that [REDACTED] became a U.S. citizen in 1917, pursuant to the Act of March 2, 1917. Accordingly, the applicant has established that his mother was a U.S. citizen at the time of his birth abroad on July 24, 1937.

The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth. *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026,1029 (9th Cir. 2000.) The applicant was born on July 24, 1937. Section 1993 of the Revised Statutes is therefore applicable to his acquisition of citizenship claim.

Section 1993 of the Revised Statutes provides in pertinent part that a child:

[B]orn out of the limits and jurisdiction of the United States, whose father or mother or both at the time of the birth of such child is a citizen of the United States, is declared to be a citizen of the United States; but the rights of citizenship shall not descend to any such child unless the citizen father or citizen mother, as the case may be, has resided in the United States previous to the birth of such child.

A brief visit to the U.S. has been found to satisfy section 1993 of the Revised Statutes residence requirements. *See generally, Matter of E*, 9 I&N Dec. 479 (Comm. 1961); *See also, Matter of V*, 6 I&N Dec. 1,5 (A.G. 1954.) Moreover, the residence of a Puerto Rican citizen parent in the unincorporated territory of Puerto Rico has been considered to qualify as residence in the United States for section 1993 of the Revised Statutes purposes. *See In the Matter of F--*, 1 I&N Dec. 287 (BIA 1942); *See also, Friend v. Reno*, 172 F.3d 638, 644-45 (9th Cir. 1999.)

In the present matter, [REDACTED] s June 20, 1901, Commonwealth of Puerto Rico birth certificate and the Dominican Republic immigration document reflecting that [REDACTED] entered the Dominican Republic about six years later, on May 2, 1907, establish, by a preponderance of the evidence, that [REDACTED] met the section 1993 of the Revised Statutes, U.S. residence requirements prior to the applicant's birth. Accordingly, the AAO finds that the applicant has met his burden of proving that he acquired U.S. citizenship from his mother pursuant to section 1933 of the Revised Statutes. The appeal will therefore be sustained, and the application will be approved.

ORDER: The appeal is sustained. The application is approved.