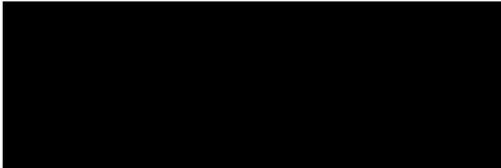




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 19 2006
WAC 06 047 50139

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1431.

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 Montreal, Canada on March 14, 1995. The applicant's father, [REDACTED] was born in Canada on November 15, 1960 and acquired U.S. citizenship at the time of his birth. The applicant's mother, [REDACTED] is, based on the evidence of record, a citizen of Canada. The record reflects that the applicant's parents were married on September 6, 1987. The applicant seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director denied the Form N-600, Application of Certificate of Citizenship, based on his determination that the record did not establish that the applicant's father met the physical presence requirements of section 301(g) of the Act or had been admitted to the United States as a lawful permanent resident as required by section 320 of the Act. Accordingly, he denied the Form N-600, Application for Certificate of Citizenship.

On appeal, the applicant's father submits a copy of the face page of the U.S. passport issued to his son on April 10, 2003 by the U.S. Department of State.

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 present record contains a copy of the face page of the U.S. passport, [REDACTED] issued to the applicant, which is valid until April 9, 2008. As the passport appears to be a valid U.S. passport issued to the applicant as a citizen of the United States, the AAO finds that 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). Because the applicant has established conclusively that he is a U.S. citizen, the AAO finds that the remaining issues raised in this case need not be addressed. 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.