



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: MIAMI, FL

Date: DEC 19 2006

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:

[REDACTED]

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Miami, Florida and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant was born on July 11, 1989 in Peru. The applicant's mother, [REDACTED] was born in Peru and became a naturalized United States (U.S.) citizen on February 25, 2003, when the applicant was 13 years old. The applicant's natural parents were never married and the record contains no evidence to indicate that the applicant was legitimated by her natural father. The applicant was lawfully admitted to the United States as a lawful permanent resident on February 19, 1999, when she was nine years old. 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 was residing in the United States in the legal and physical custody of her U.S. citizen mother, as required by section 320 of the Act, 8 U.S.C. § 1431. On appeal, counsel submits evidence to establish that the applicant lives with her mother in the United States, attending Miami Dade College in Miami, Florida and working as a volunteer at the Executive Office of the Administrative Office of the Courts, 11th Judicial Circuit of Florida.

While the AAO notes the additional information submitted by counsel, this documentation need not be addressed. The evidence of record, specifically the copy of the U.S. passport issued to the applicant by the Department of State on March 26, 2003 establishes conclusively that she is 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 present record contains copies of the face and signature pages of the U.S. passport issued to the applicant, [REDACTED] which is valid until March 25, 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). 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.