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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: HONOLULU, HI

Date:

DEC 18 2008

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship under Section 325 of the Immigration and Nationality Act; 8 U.S.C. §1435.

ON BEHALF OF APPLICANT:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Interim District Director, Honolulu, Hawaii, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on October 12, 1960 in Chuuk, Federated States of Micronesia. The applicant claims that she is a U.S. citizen pursuant to section 301(b) of the Covenant to Establish a Commonwealth in the Northern Mariana Islands in Political Union with the United States, Act of March 24, 1976, Pub. L. No. 94-241, 90 Stat. 263 (“the Covenant”).

The interim district director concluded, in relevant part, that the applicant failed to establish that she was domiciled continuously in the Northern Mariana Islands for the required period of time prior to the enactment of the Covenant. On appeal, the applicant maintains that the director erred and that, although she has resided in Chuuk, Guam and Hawaii, she has always intended to return to Saipan and therefore has been continuously domiciled in the Northern Mariana Islands.¹

Article III of the Covenant, entitled Citizenship and Nationality, provides, in relevant part,

Section 301. The following persons and their children under the age of 18 on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States . . .

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections . . . prior to January 1, 1974.

Section 1005(e) of the Covenant, in turn, defines the term “Domicile” as

the place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

Section 301 of the Covenant became effective on November 4, 1986 pursuant to Presidential Proclamation No. 5564, 51 Fed. Reg. 40399 (1986).

¹ On appeal, the applicant, through counsel, requests oral argument. The regulation at 8 C.F.R. § 103.3(b) provides that the affected party must explain in writing why oral argument is necessary. USCIS has the sole authority to grant or deny a request for oral argument and will grant such argument only in cases that involve unique factors or issues of law that cannot be adequately addressed in writing. In this case, no cause for oral argument is shown. Consequently, the request is denied.

The AAO notes that the only evidence regarding the applicant's domicile during the five-year period immediately preceding the Covenant's effective date (from 1981 to 1986) is her children's birth certificates. The AAO notes that the applicant's children were all born in Chuuk. The AAO recognizes that the applicant's father, a citizen of Saipan, was employed in Chuuk at the time of the applicant's birth. The applicant claims that she has been domiciled in Saipan since birth because, although she has resided elsewhere, she has always had the intent of returning to Saipan. The AAO finds no evidence in the record to support her claim with respect to the period immediately preceding the Covenant's effective date.

Pursuant to 8 C.F.R. § 341.2(c), the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is "probably true" or "more likely than not." *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). The applicant has not met her burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.