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U.S. Department of Justice

Immigration and Naturalization Service

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: [redacted] Office: San Francisco Date: **JAN 29 2003**

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship under Section 341(a) of the Immigration and Nationality Act, 8 U.S.C. § 1452(a)

IN BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, San Francisco, California, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant was born in the Philippines on January 9, 1941. Her father [redacted] never had a claim to U.S. citizenship. Her mother, [redacted] was born in the Philippines in September 1914, and is alleged to have become a United States citizen because her father (the applicant's grandfather, [redacted] was born in the United States in July 1872. The applicant's parents married each other in June 1940. The applicant seeks a certificate of citizenship claiming eligibility under section 1993 of the Revised Statutes (R.S. section 1993), which incorporated the Act of Feb. 10, 1855 (10 Stat. 604).

The district director determined that the applicant failed to establish that she acquired United States citizenship at birth because her alleged U.S. citizen mother never resided in the United States prior to the applicant's birth.

On appeal, the applicant states that her mother died of malaria/typhoid fever during World Was II while she was working with the guerrillas in the mountains of Lanao, Philippines. She states that her father was captured by the Japanese and died in a concentration camp. The applicant states that it was beyond her mother's control to meet the residency requirement.

R.S. section 1993 was amended by the Act of May 24, 1934 (48 Stat. 797) which provided, in part, that:

> Any child hereafter born 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. In cases where one of the parents is an alien, the right of citizenship shall not descend unless the child comes to the United States and resides therein for at least five years continuously immediately previous to his eighteenth birthday, and unless, within six months after the child's twenty-first birthday, he or she shall take an oath of allegiance to the United States of America as prescribed by the Immigration and Naturalization Service.

The record reflects that the U.S. Embassy denied the applicant's application for registration as a United States citizen in 1981 and her application for a U.S. passport in 1986. The decisions stated that the applicant's mother never resided in the United States as required. The applicant was admitted to the United States as a nonimmigrant student on December 14, 1989, with an extension of

stay until December 13, 1990. She filed the present application on October 25, 1990.

The applicant has failed to overcome the grounds for denial on appeal. 8 C.F.R. § 341.2(c) provides that the burden of proof is on the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met this burden. The applicant has not established that she derived United States citizenship under R.S. section 1993. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.