

FORMS: 4.29 REBUTTAL LETTER IN RESPONSE TO DENIAL OF "REQUEST FOR CERTIFICATE OF NON-CITIZEN NATIONAL STATUS" BY DEPT. OF STATE

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Related articles and links:

- [Dept of State \(DOS\) letter that this letter responds to](#) (from Evidence, item 14.3)

Original letters that prompted the above response:

[FORMS, Item 4.13](#)

[FORMS, Item 4.22](#)

The letter below is a rebuttal to the letter appearing under EVIDENCE, item 14.3. The letter rebuts a letter from the Dept. of State denying the applicant a "certificate of non-citizen national status" based on earlier versions of our "Request for Certificate of non-Citizen National Status" found in forms 4.13 and 4.22. It was submitted by one of our readers.

<<ADDRESS>>

<<CITY>>, <<STATE>> <<ZIP>>

<<DATE>>

Ms. Sharon Palmer-Royston

Chief – Legal Division

Office of Passport Policy & Advisory Services

United States Department of State

Washington, District of Columbia 20520



Re: Letter dated August 7, 2003 (Declined Request for Certificate of Non-Citizen National Status)

Dear Sir/Madam:

I *am* a natural-born _____ (statename) Citizen as well as a natural-born United States national, but I am not and nor have I ever been as a matter of fact, a United States (U.S.) citizen. As the United States Code provides, I *have* correctly applied for and I *am* entitled to receive a “non-citizen U.S. national certificate”. Since you have referred to section 308(1) of the Immigration and Nationality Act (INA) [Title 8 U.S.C. § 1408] in your last correspondence, I have included same for your convenience below:

Section 1408. - Nationals but not citizens of the United States at birth

Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

Your letter specifically refers to (1) above explaining non-citizen US nationals born in an outlying possession of the United States. According to Section 1101 (38) the term “outlying possessions of the United States” means American Samoa and Swains Island. I have never claimed to have had a natural birth in American Samoa or Swains Island, nor does my birth certificate that you reference indicate such a fact.

The fact is that I *am* a national, but non citizen of the United States per item (2) of section 1401 of the United States Code as indicated above. I *was* born outside the United States and its outlying possessions of parents both of whom *are* nationals but not citizens of the United States, *and* have had a residence in the United States.

According to Section 1101 (38), the term “United States”, except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

According to Title 8 Code of Federal Regulations, Part 215.1 (Definitions) the term “continental United States” means the District of Columbia and the several States, except Alaska and Hawaii. Clearly, “continental United States” means the Federal States, not the 50 states of the union.

According to Title 4 of the United States Code, (FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES) Chapter 4 (THE STATES) Section 110(d) The term “State” includes any *Territory* or possession of the United States.

“It is to be noted that the statute differentiates between States of the United States and foreign states by the use of a capital S for the word when applied to a State of the United States” Eisenberg v. Commercial Union Assurance Company, 189 F.Supp. 500 (1960)”

Below is a further clarification of the meaning of “states” as defined by the U.S. Supreme Court in the case of *O’Donohue v. United States*, 289 U.S. 516 (1933), where they define what is not a “state”:

After an exhaustive review of the prior decisions of this court relating to the matter, the following propositions, among others, were stated as being established:

- 1. That the District of Columbia and the territories are not states within the judicial clause of the Constitution giving jurisdiction in cases between citizens of different states;*
- 2. That territories are not states within the meaning of Rev. St. 709, permitting writs of error from this court in cases where the validity of a state statute is drawn in question;*
- 3. That the District of Columbia and the territories are states as that word is used in treaties with foreign powers, with respect to the ownership, disposition, and inheritance of property;*
- 4. That the territories are not within the clause of the Constitution providing for the creation of a supreme court and such inferior courts as Congress may see fit to establish.*

According to your own reference materials, specifically 7 FAM 1100 “ACQUISITION AND RETENTION OF US CITIZENSHIP AND NATIONALITY”, it explains the following under 7 FAM 1111.1:

“While most people and countries use the terms “citizenship” and “nationality” interchangeably, U.S. law differentiates between the two [see Section 101(a)(21)-(22) of the Immigration and Nationality Act (INA)]. Under current law, all U.S. citizens are also U.S. nationals, but not all U.S. nationals are U.S. citizens.”

In addition, your own reference materials also explain a landmark Supreme Court case regarding U.S. citizenship. According to 7 FAM 1116.2-1(b) Subject at Birth to U.S. Law:

“In U.S. v. Wong Kim Ark, 169 U.S. 649 (1898), the U.S. Supreme Court examined at length the theories and legal precedents on which the U.S. citizenship laws are based and in particular, the types of persons who are subject to U.S. jurisdiction... The Court concluded that:

The 14th Amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including children born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. The Amendment in clear words and in manifest intent, includes the children born within the territory of the United States, of all other persons, of whatever race or color domiciled within the United States.”

Approximately 35 years after the Wong Kim Ark (1898), the Supreme unimpeachably elucidates in O’Donohue (1933):

“That territories are not states within the meaning of Rev. St. 709, permitting writs of error from this court in cases where the validity of a state statute is drawn in question...”

According to Social Security Administration (SSA) publication GN 00303.120 Who Is A U.S. Citizen, it explains under Policy Principle (A)(1) “ONE OF THE 50 STATES OR D.C.”:

Any individual born in one of the 50 States or the District of Columbia who was subject to the jurisdiction of the U.S. at birth. NOTE: Individuals born in the Harcon Tract are U.S. citizens because it is considered

U.S. territory.

Since “State” clearly has a capital letter “S”, it is a Federal State, and as such, part of the 50 States of the United States, not part of the 50 states of the union for the United States of America.

“It is to be noted that the statute differentiates between States of the United States and foreign states by the use of a capital S for the word when applied to a State of the United States” Eisenberg v. Commercial Union Assurance Company, 189 F.Supp. 500 (1960)”

In order to be subject to the jurisdiction of the U.S., an individual must be under the purview of the 14th Amendment [see SSA publication GN 00303.100 U.S. Citizenship (B)(5)], and Wong Kim Ark (1898) clearly does not apply to me because I was not born within a U.S. *territory*. I declare herein that I am a non-citizen U.S. national as such is described in 8 U.S.C. § 1101(a)(21), §1101(a)(22)(B), and §1408(2).

I now retain, will at all times in the future retain, and always have retained my natural born status of a Citizen of one of the several union States of America under the Constitution and law, and my Citizenship in these United States of America. I preserve all my unalienable Rights that are inherent from my Creator, at all times. I waive no rights at any time, *including by operation of any implied contract asserted by the government*. As a Natural Born Sovereign Citizen of the state, I have the same measure of citizenship in my country as our founding fathers and early citizens had, including Abraham Lincoln, George Washington, and Thomas Jefferson, *all of whom had no 14th Amendment citizenship because there was no 14th Amendment at the time they were alive*.

I assert that your statement in paragraph three (3) of your letter dated August 7, 2003, “In light of the aforementioned facts [not born in American Samoa or Swains Island, hence you are not a United States non-citizen national] the Department of State must decline to issue you a Certificate...” is a denial of rights and privileges as a national per Section 1503(b) of the United States Code:

TITLE 8 > CHAPTER 12 > SUBCHAPTER III > Part IV > Sec. 1503.

Sec. 1503. - Denial of rights and privileges as national

(b) Application for certificate of identity; appeal

If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this subsection shall be applicable only to a person who at some time prior to his application for the certificate of identity has been physically present in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

Therefore, I am resubmitting my personal check, number 579, in the amount of \$35.00 (that you dishonored by your unacceptable return) to the Department of State for my Certificate of Non-citizen U.S. national Status, as provided by law. Your dishonor of my commercial presentment is noted and not excused. Your own letter dated August 7, 2003 confirms that I was not born in the Federal State called “State of New

Jersey” but the union state “New Jersey”. Note also that this was the same distinction used in Wong Kim Ark (1898) in that the basis of his undisputed claim for being a U.S. citizen was that he was born in the “State of California”, not the “California Republic”:

“The facts of this case, as agreed by the parties, are as follows: Wong Kim Ark was born in 1873 in the city of San Francisco, in the State of California...”

I, do hereby declare my right to expatriate as absolute and declare that I have already expatriated from the municipal corporation of the District of Columbia and thereby voluntarily relinquish my any res in trust, existing by operation of any presumptions about my citizenship, to the foreign jurisdiction known as the *municipal corporation* (see Black’s 5th) of the District of Columbia, a democracy, and thereby return to the Constitutional Republic envisioned by our founding fathers. Indeed, the matter of fact as well as the matter of law substantiating that the United States is a municipal corporation, held in specific contradistinction to the United States of America, a union of the 50 states of America, is manifest within the 28 United States Code § 3002 (15):

Sec. 3002. Definitions

(15) "United States" means -

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

The words “corporation”, “entity”, and “instrumentality” are *ens legis*; creatures of the law, artificial beings such as a corporation, deriving its existence entirely from the law. Black’s 5th defines “corporation”, “entity”, and “instrumentality” as used in the context of 28 United States Code § 3002 (15) as follows:

(A) Corporation: An artificial person or legal entity created by or under the authority of the laws of a state or nation, composed in some rare cases, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.

(B) Entity: An existence apart, such as a corporation in relation to its stockholders.

(C) Instrumentality (examined under “Instrumentality rule”): Under this rule, corporate existence will be disregarded where a corporation (subsidiary) is so organized and controlled and its affairs so conducted as to make it only an adjunct and instrumentality of another corporation.

It is hoped that this letter has provided the necessary clarification supporting my request for a non-citizen U.S. national certificate. It is understood that since our laws compose a cavernous library extending over 80 linear miles demanding sizeable and ever increasing shelf-space, that additional points are sometimes needed to explain legitimate albeit not common demands for performance. This letter is a second request for a non-citizen U.S. national status certificate to be timely issued to me from the U.S. Secretary of State.

Sincerely,



<<YOUR NAME>>

Enclosures: Personal Check, number 597, in the amount of \$35.00

Copy of your letter dated _____ (date)

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