

# MEMORANDUM

TO : Chief, INO

FROM : Attorney General

SUBJECT: Certificate of Identity for Persons Born After March 6, 1977  
A.G. Opinion 85-041

DATE: 6-7-85  
*6/11/85*  
*Cammy*  
*Att. Gen.*  
*Recommened Legitimate*

You have requested us to provide an opinion on whether a certificate of identity can be issued to a person who is born in the CNMI after March 6, 1977. On August 13, 1981, this Office opined that certificates cannot be issued to this class of persons. On June 22, 1984, this Office reversed its earlier position. With this opinion, we once again reverse the latest opinion and retreat to the first position. We believe the thorniness of this issue comes not from any legal complexity but from the unreasonable position the law clearly requires us to assume.

Covenant section 301 defines three classes of persons who will become citizens or nationals of the United States upon termination of the trusteeship. Their children under the age of 18 years will receive the same status. During the transition period until the trusteeship terminates, the Covenant provides no special treatment for this group.

Public Law No. 1-6 provides for a certificate of identity to identify those persons who are interim citizens of the United States. 3 CMC §4121. This alludes to the CNMI Constitution's Schedule on Transitional Matters which provides an interim definition of citizenship in Section 8. That definition is necessary as the CNMI Constitution refers to United States citizens and nationals, a status which the people of the Northern Mariana Islands have not yet attained. Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands, p. 202. Because Covenant section 301 relies on termination of the trusteeship as the day of judgment, a new date had to be substituted. Instead, the date of approval of the Constitution (March 6, 1977) was substituted in the interim definition.

So, certificates of identity are available to those persons who meet the interim definition of citizenship. 3 CMC §§4122, 4111. The issue is whether or not a child born in the Commonwealth after March 6, 1977 meets the definition. 3 CMC §4111(a) includes as "citizens":

Persons who were born in the Northern Mariana Islands, who were citizens of the Trust Territory of the Pacific Islands on the date of the approval

of the Constitution by the people of the Northern Mariana Islands, and who on that date were domiciled in the Northern Mariana Islands or in the United States.

This provision clearly requires that a person be born prior to the date of the approval of the Constitution. Therefore, a certificate of identity is not available to persons born after that date. We see no ambiguity in the terms that allows us to otherwise interpret this section.

A note should be added here. It is apparent that the interim definition tracks the Section 301 categories word for word except for the date of judgment. However, it omits giving the same result "to their children under the age of 18 years" as the Covenant does. This most likely was taken out in order to ensure that certificates are not granted to children who will not later qualify for citizenship. This is too restrictive as a certificate of identity is a document of convenience. It does not entitle its holder to citizenship at the termination of the trusteeship. Citizenship is granted by the United States upon very specific grounds agreed to in the Covenant. Public Law No. 1-6 is the unilateral act of the CNMI Legislature which does not even purport to grant eventual citizenship. In fact, it is easy to see how the certificate holder may not become a citizen or how one may become a citizen without being a certificate holder due to the different dates of judgment.

Example No. 1:

A is born in Rota on January 1, 1960. On March 6, 1977 he has lived his entire life at home on Rota. He will receive a certificate of identity. On June 1, 1985 he marries a Japanese woman and moves to his new home in Tokyo. On January 1, 1986, the trusteeship terminates. A will not become a United States citizen because he was not domiciled in the Northern Mariana Islands, United States or any United States territory on that date.

Example No. 2:

B is born in Truk on January 1, 1960. On January 1, 1980, B moved to Saipan. He will not receive a certificate of identity because he was not domiciled in the Northern Mariana Islands for 5 years prior to March 6, 1977. B continues to live at his new home until the trusteeship terminates on January 1, 1986. B will become a United States citizen because he was domiciled continuously in the Northern Mariana Islands for 5 years immediately before the trusteeship terminated.

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Given that the certificate is not congruent with citizenship and that it does not entitle one to anything more than interim convenience, we would recommend a change in law so that a person born in the CNMI after March 6, 1977 who is a Trust Territory citizen and owes no foreign allegiance can obtain a certificate of identity.

  
REXFORD C. KOSACK