

August 26, 2015

Re: Citizenship by Birth and Its Importance to the Latino Community

Dear Presidential Candidate:

We write on behalf of the National Hispanic Leadership Agenda (NHLA), a coalition of 40 leading national Latino nonpartisan civil rights and advocacy organizations, to address the issue of birthright citizenship, which has recently again become a focus of debate nationally on immigration. Proposals to limit citizenship to certain individuals threaten the civil rights of Latinas and Latinos in the United States, restrict the ability of the Latino community to fully participate in this country's legal and political system, and disrespect and diminish the historic struggles behind incorporation of citizenship by birth in our Constitution.

In recent weeks, several elected officials and electoral candidates have seemed to endorse proposals to end citizenship by birth. Efforts to restrict the right of citizenship under the Citizenship Clause of the Fourteenth Amendment are a significant and serious threat to the civil rights of Latinos in the United States. A policy that disrupts current interpretation and application of the Citizenship Clause would further restrict the ability of Latinos to fully enforce their constitutional and civil rights and create an underclass of stateless individuals, reminiscent of the pre-Civil War era.

The Fourteenth Amendment of the Constitution was ratified after the end of the Civil War, and Section 1, known as the "Citizenship Clause," states that, "[a]ll persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."¹ The Citizenship Clause is rooted in the aftermath of the Supreme Court's divisive and retrograde decision in *Scott v. Sandford*,² (infamously known as the *Dredd Scott* case). In *Scott*, citizenship was denied to freed African American former slaves on the premise that State citizenship rights were not transferable across state lines when a freed former slave traveled to or moved to another state. In adopting the Citizenship Clause of the Fourteenth Amendment, the nation guaranteed uniform U.S. citizenship, irrespective of race or ethnicity.

In 1898, the Supreme Court held in *United States v. Wong Kim Ark*,³ that under the Fourteenth Amendment citizens include "in clear words and in manifest intent . . . the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States."⁴ Thus, the Citizenship Clause has long been interpreted to have only a narrow exclusion from citizenship by birth for those born to diplomatic personnel or to members of an occupying force during any foreign occupation.

¹ U.S. Const. Amend. XIV.

² *Scott v. Sandford*, 60 U.S. 393 (1856).

³ *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

⁴ *Id.* at 693.

**MEMBER
ORGANIZATIONS**

American G.I. Forum
ASPIRA Association
Avance Inc.
Casa de Esperanza: National Latin@ Network
Congressional Hispanic Caucus Institute
Cuban American National Council
Farmworker Justice
Hispanic Association of Colleges & Universities
Hispanic Federation
Hispanic National Bar Association
Inter-University Program for Latino Research
Labor Council for Latin American Advancement
Latino Justice PRLDEF
League of United Latin American Citizens
MANA, A National Latina Organization
Mexican American Legal Defense and Educational Fund
National Alliance of Latin American and Caribbean Communities
National Association of Hispanic Federal Executives
National Association of Hispanic Publications
NALEO Educational Fund
National Association of Latino Independent Producers
National Conference of Puerto Rican Women, Inc.
National Council of La Raza
National Hispana Leadership Institute
National Hispanic Caucus of State Legislators
National Hispanic Council on Aging
National Hispanic Environmental Council
National Hispanic Foundation for the Arts
National Hispanic Media Coalition
National Hispanic Medical Association
National Institute for Latino Policy
National Latina Institute for Reproductive Health
National Puerto Rican Coalition
Presente.org
SER Jobs for Progress National
Southwest Voter Registration Education Project
United States Hispanic Chamber of Commerce
United States Hispanic Leadership Institute
United States-Mexico Chamber of Commerce
U.S.- Mexico Foundation

Restricting the right to citizenship by birth to exclude certain individuals born to parents domiciled here would have a substantial detrimental impact on all Americans, and the impact would be particularly harmful to the Latino community. For instance, to implement such a policy at the administrative or local level would result in heavy administrative burdens for individuals and administrators in order to prove citizenship, creating widespread confusion for local registrars and officials. The result is likely to be a disparate impact on Latinos and Latinas, many of whom may be perceived to be undocumented, regardless of their actual status.

More importantly, a policy to end citizenship by birth would likely create an underclass of Latinos and Latinas who would be subject to discrimination or other adverse treatment based on ethnicity, national origin, or race, but without the protections of citizenship. The dangerous result would be a population of stateless individuals and a dramatic increase in the “undocumented” population by creating a caste of people unable to prove citizenship based on their birthplace. This is all at a time when the number of mixed-status families in this country continues to grow. Attacks on the Latino community by calling for an end to citizenship by birth undermine America’s fundamental principles of justice and equality. America’s Latino community will not accept proposals that would return this country to an antebellum era of legislated inequality based on race and class. In the strongest terms, NHLA urges all policymakers and policy influencers to reject categorically any attempt to change the longstanding rule of citizenship by birth, a rule which has, for over a century and a half, contributed to our nation’s ongoing political and economic prosperity.

If you have any questions regarding this letter, you may reach Andrea Senteno, of MALDEF, at asenteno@maldef.org or by phone, at (202) 572-0467. Thank you for your time and consideration.

Sincerely,



Thomas A. Saenz
MALDEF, President and General Counsel
NHLA Immigration Committee Co-Chair



Jose Calderón
Hispanic Federation, President
NHLA Immigration Committee Co-Chair