

Opinion No. 16-1869

September 25, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Edwin Mechem, Alamogordo, New Mexico.

Citizenship.

OPINION

{*420} I have just received your letter of the 22nd instant in which you ask my opinion as to the citizenship of a client of yours whose father was a Frenchman and whose mother was a native born American, he having been born in Mexico, to which country his parents removed after their marriage. You say that his father died and thereafter, and when he was about seven years old, he returned with his mother to the United States where they have resided ever since.

You call my attention to the act of March 2, 1907, which is to be found in the 1909 Supplement to Federal Statutes, Annotated, and it seems to me quite clear, from the provisions in that statute, {*421} that your client is now a citizen of the United States. Section 3 of that statute declares that any American woman, who marries a foreigner, shall take the nationality of her husband, but at the termination of the marital relation, she may assume her American citizenship, if abroad, by registering as an American citizen, within one year with a consul of the United States, or by returning to reside in the United States, or by continuing to reside therein after the termination of the marital relation. Section 5 provides that a child born without the United States of alien parents, shall be deemed a citizen of the United States by virtue of naturalization or resumption of American citizenship by the parent, if such naturalization or resumption takes place during the minority of such child.

In view of these provisions it seems quite plain that your client was born without the United States and of alien parents. After the death of his father his mother, by returning to reside in the United States, resumed her American citizenship and such resumption took place during the minority of her child, and by virtue of that resumption he is to be deemed a citizen of the United States.

I can see nothing in the statute to make this doubtful, but if you have discovered anything which would cast any doubt upon this conclusion, I wish you would call it to my attention.

I cannot discover that any such question has been adjudicated by the courts, but the statute seems so clear and plain to me that I would not naturally expect to find that it had been made the subject of adjudication as to the particular question which you ask.