

Unwed American Parents Will Have Same Residency Requirements towards a Child's Citizenship



Summary: Unwed American parents, no matter if it is the mother or father, will subscribe to the same standards qualifying their child to automatic citizenship.

Unwed American fathers have the same rights as unwed American mothers when it comes to receiving citizenship for their baby. The Supreme Court in a 6 to 2 vote made this very clear when they struck down a federal law that gave unwed mothers a distinct advantage.

The Supreme Court said the law was based on “stunning stereotypes” that unmarried men care less about their children. The law allowed a child born abroad to an American mother that had lived in the U.S. for at least one year directly prior to the child’s birth automatic U.S. citizenship. For the child born to an American father, he must live continuously in the United States for ten years, five of which must be when he is over the age of 14, in order to receive U.S. citizenship.

The basis for tossing the law was that the different gender guidelines violate the Constitution’s guarantee of equal protection of the law. The law received attention when Luis Ramon Morales-Santana sought U.S. citizenship. Morales-Santana was born in the Dominican Republic to unwed parents. His mother was from the DR while his father, Jose Morales was a U.S. citizen in the country working on a construction project. His father was born in Puerto Rico and had lived there just short 20 days of his 19th birthday. Justice Ruth Ginsburg clarified that “Puerto Rico was then, as it is now, part of the United States.” He moved to the DR when it was occupied by the U.S. to work for a U.S. company as a mechanic.

His father was 20 days short of meeting the requirement for automatic citizenship for Morales-Santana but continued to care for the boy. His parents eventually married, with his father’s name being placed on the birth certificate later. Eventually, he came to the United States as a permanent resident with his parents.

In 2000, Morales-Santana was convicted of multiple felonies so the government moved to deport him. He challenged the citizenship law, of which the Supreme Court agreed: The child of an unwed American parent should receive the same time requirements for automatic citizenship regardless of whether that parent is the father or mother.

This was not the first time the court has struggled to reach a conclusion on this issue. In 2001, the justices kept the law in a 5-to-4 vote. The two other times the court heard arguments regarding this law, they were unable to reach a majority ruling. This time, Chief Justice John Roberts and Justice Anthony Kennedy joined with the liberals to squash the law.

Now the decision of what to do must be made. Congress must now take on the issue and make the law equal. The Supreme Court is not allowed to make an exception a general rule. Since women received the favorable treatment, they must now abide by the same law as the men. This means Morales-Santana still does not qualify for citizenship.

Ginsburg stated, “We can not convert [the] exception for unwed mothers into the main rule. We must therefore leave it to Congress to select, going forward, a physical-presence requirement (ten years, one year, or some other period) uniformly applicable to all children born abroad with one U.S.-citizen parent.”

The law has been changed since Morales-Santana was born to five years, two of which after the age of 14. So while the dismissal of the law is a win for gender equality, it certainly is not a win for immigration rights.

Children born abroad to married U.S. citizen parents receive automatic citizenship.

Do you think this is a fair ruling? Tell us your thoughts in the comments below.

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