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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

HUGO PETERSEN-PALMA, also known  
as Hugo Leonel Petersen Palma,  
  
Petitioner,  
  
v.  
  
LORETTA E. LYNCH, Attorney General,  
  
Respondent.

Case No.: 3:15-cv-1313-H-JMA  
  
**MEMORANDUM DECISION**

On June 5, 2015, the United States Court of Appeals for the Ninth Circuit transferred this petition to this Court pursuant to 8 U.S.C. § 1252(b)(5)(B) for de novo review of Petitioner Hugo Petersen-Palma’s allegation that he is a citizen of the United States. (Doc. No. 1.) On June 25, 2015, the Court scheduled a de novo hearing for August 26, 2015. (Doc. No. 5.) On August 6, 2015, the Court continued the de novo hearing to December 15, 2015. (Doc. No. 10 at 2.) The Court held the de novo hearing on December 15, 2015. (Doc. No. 31.) Mariana Hanna represented Petitioner, and Derek Julius and Zoe Heller represented Respondent.<sup>1</sup> Petitioner participated in the hearing telephonically from Tensas

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<sup>1</sup> The Court granted Petitioner’s counsel’s request to withdraw from the petition as of the conclusion of the de novo hearing. Thus, Petitioner will now be proceeding pro se.

1 Parish Detention Center in Waterproof, Louisiana.

2 “The government ‘bears the ultimate burden of establishing all facts supporting  
3 deportability by clear, unequivocal, and convincing evidence.’” Mondaca-Vega v. Lynch,  
4 No. 03-71369, 2015 WL 8755585, at \*3 (9th Cir. Dec. 15, 2015) (quoting Chau v. INS,  
5 247 F.3d 1026, 1029 n.5 (9th Cir.2001)). “When, however, the government offers evidence  
6 of foreign birth, a ‘rebuttable presumption of alienage’ arises, ‘shifting the burden to the  
7 [alleged citizen] to prove citizenship.’” Mondaca-Vega, 2015 WL 8755585, at \*3 (quoting  
8 Chau, 247 F.3d at 1029 n.5).

9 During the hearing, Respondent submitted an authenticated copy of a Guatemalan  
10 birth registration indicating that Hugo Leonel Petersen Palma was born to María Dorotea  
11 Palma Bojorgues at Roosevelt Hospital in Guatemala, Guatemala, Guatemala on  
12 November 8, 1966. The Court received the birth registration and its authenticating  
13 documents as Exhibit 1. Respondent also submitted certified translations of the birth  
14 registration and its authenticating documents, which the Court received as Exhibits 1A and  
15 2.<sup>2</sup>

16 On September 29, 2015, the Court issued an order in which it stated, “At the hearing,  
17 both Petitioner and Respondent may submit evidence. If Petitioner does not cooperate with  
18 the proceedings or declines to submit evidence to rebut Respondent’s evidence, the Court  
19 may rule against Petitioner.” (Doc. No. 16 at 2.) The Court directed Petitioner’s counsel  
20 to send a copy of that order to Petitioner. (Id.) Petitioner did not submit contrary evidence  
21 at the hearing.<sup>3</sup>

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24 <sup>2</sup> Respondent also filed the birth registration, authenticating documents, and translations on the docket  
25 on October 15, 2015. (Doc. No. 24.) The Court directed Petitioner’s counsel to forward those  
26 documents to Petitioner. (Doc. No. 16.) At the hearing, Petitioner’s counsel indicated that she had  
27 forwarded the documents. Thus, Petitioner had the opportunity in advance of the hearing to review the  
28 evidence that would be presented against him.

<sup>3</sup> Petitioner has been anticipating this hearing for more than two years: he requested that the Ninth  
Circuit transfer his petition to the district court for a de novo hearing in a brief he filed on April 8, 2013.  
(Petitioner’s Response to Respondent’s Opposition to Transfer to District Court, Petersen-Palma v.  
Holder, 12-72776, at 9 (9th Cir. Apr. 8, 2013).)


1 The birth registration submitted by the government is properly authenticated, and it  
2 bears Petitioner's name and the same date of birth as Petitioner claimed in proceedings  
3 before the Ninth Circuit. (Petitioner's Response to Respondent's Opposition to Transfer  
4 to District Court, Petersen-Palma v. Holder, 12-72776, at 2 (9th Cir. Apr. 8, 2013).)  
5 Accordingly, the Court finds that the birth registration is authentic and that it pertains to  
6 Petitioner.

7 The birth registration submitted by Respondent constitutes sufficient "evidence of  
8 foreign birth" to shift the burden of proof to Petitioner. Mondaca-Vega, 2015 WL  
9 8755585, at \*3. Petitioner did not submit any evidence to rebut Respondent's evidence.  
10 Thus, the Court concludes that Respondent has met its burden to prove by "clear,  
11 unequivocal, and convincing evidence" that Petitioner was born in Guatemala and that he  
12 is a citizen of Guatemala and not of the United States. See id.

13 The Court directs the Clerk to enter this memorandum decision, transmit a copy to  
14 the Ninth Circuit, furnish copies to the parties, and close the case.

15 **IT IS SO ORDERED.**

16 DATED: December 16, 2015

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19 MARILYN L. HUFF, District Judge  
20 UNITED STATES DISTRICT COURT  
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