

The Virgin Islands Consortium

Citizenship Is Not A Fundamental Right Of Virgin Islanders, Obama Administration Says

VIC News / **Published On August 18, 2014 01:32 PM /**

Ernice Gilbert **August 18, 2014**



Being a Citizen of the United States of America is not a fundamental right of people born in the U.S. Virgin Islands, a brief filed last week by the Obama administration states. The filing is in response to a lawsuit about the citizenship rights for unincorporated territories that is now pending before the federal appeals court.

The lawsuit, *Tuaua v. United States*, concerns the rights of American Samoan's citizenship rights, and while the circumstances for Samoa's legal battle may be different from the Virgin Islands, the outcome of the litigation could impact citizenship rights for Virgin Islands residents.

The United States bought the Virgin Islands from the Danes in 1917 for \$25 million in gold, and citizenship was granted through an act of Congress in 1927. The same decision hasn't been made for Samoa's residents, who are still considered "non-citizen nationals", hindering them from enjoying the full benefits of citizenship.

The Samoan lawsuit is being spearheaded by Neil Weare, who is president of We the People Project, an organization that works to achieve equal rights for residents of U.S. territories.

The federal government's response to the lawsuit contends that the law makes plain that outlying U.S. possessions gives people born to non-U.S. citizens parents the classification of nationals, but not citizens, and that changing the status is the U.S. Congress' job and not the federal government, U.S. Attorney Ronald Machen said.

"The responsibility of Congress to govern this nation's territories has long been recognized and respected by the Courts," Machen said in the brief.

"In fact, the Third Circuit held in *Ballentine v. United States*, 486 F.3d 806, 813-14 [3rd Circuit 2007], that Congress was within its authority to determine that the U.S. Virgin Islands was unincorporated and therefore a person born there was not automatically a citizen who could vote in U.S. presidential elections," Machen said.

Weare argues that the Obama administration's findings create two classes of American nationals: those with protection and those without.

"It's hard to believe that in the 21st century the Obama Administration is defending two separate classes of Americans," Weare said in a written statement.

As it stands now, if you are born in the U.S. Virgin Islands, you are a full citizen with limited rights, as you're not able to vote for the president of the U.S. and do not have a voting representative in Congress. However if a Virgin Islander moves to any of the 50 states, all the rights are restored immediately.

This makes the Samoan case all the more important: if Tuaua wins, Virgin Islanders could have a constitutional right to citizenship that cannot be given or taken away by Congress. If the case is lost however, nothing changes for Virgin Islanders.