



## **Is your birth certificate tampered or late registered?**

*By Imelda Argel, LLB (UP), LLM (University of Sydney)*

It is often the case that visas get refused or the process gets delayed due to the birth certificate being tampered with or late registered. I have won two cases at Migration Review tribunal (MRT) after having successfully argued that a tampered or late registered birth certificate can still be used as evidence of identify in a visa application.

### **Documents which can be provided in lieu of a birth certificate**

Documents that can be used to confirm birth details and proof of age if the birth certificate is not available are:

- school records
- passport
- baptism certificate
- family book showing date of birth
- ID document issued by your government
- hospital birth records
- court documents that verify your date of birth
- copies of military service records or discharge papers.

### **Tampered Birth Certificate**

In a case I won at the Migration Review Tribunal (MRT), the mother sponsored her minor dependant child living overseas who had applied for a child visa. The original birth certificate had been tampered with, stating that the child's parents were married when they were not. In order to correct this, a late registered birth certificate was lodged but the place of birth was changed and was incorrect. The correct way to amend the original birth certificate was to apply for a court order to revise the information in the birth certificate. However, the grandmother commenced court proceedings to do so but eventually abandoned the case. Several supporting documents were needed to prove the identity of the child such as:

1. School records naming the review applicant as the child's mother;
2. A joint affidavit from two of the child's neighbours;
3. An affidavit from the child's father confirming that the incorrect information recorded in the original birth certificate is indeed incorrect;
4. Grandmother's affidavit explaining that the late registered birth certificate and the subsequent court proceedings were done in good faith to remedy the false information provided in the original birth certificate, although not pursued because of the expense invoked and the slow process in the Philippines.

Despite containing some false information, both the original birth certificate and the late registered birth certificate which were issued by the National Statistics Office (NSO), stated that the mother of the child was the sponsor.

### **Late registered birth certificate**

The close relationship of the visa applicant and the sponsor was required for the grant of a Carer Visa. The visa applicant, who was born in 1959, discovered that she had no certificate of birth in the Local Civil Registrar and a birth certificate was requested only in 2000. Her birth certificate stated “negligence” as the reason for delayed registration despite the actual official reason being that “some pages of the registry’s records are torn and missing,” as stated by the local civil registrar. Despite supporting documentation being provided, DIAC required a DNA test to prove that the visa applicant was the child of the sponsor.

*This information is of a general nature and should not be taken as authoritative legal advice for specific cases. Australia has a scheme that requires persons who give immigration assistance to be registered as migration agent. The writer, Atty. Imelda Argel is a practising Filipino migration solicitor and a registered migration agent in Sydney, Australia. She is a Solicitor of the Supreme Court of New South Wales, the High Court of Australia, an Attorney at law in the Philippines and in the State of New York, USA. Her Registered Migration Agent no. is 9682957.*

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