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# Justices to Weigh Law on Gaining Citizenship via Parents

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WASHINGTON — The [Supreme Court](#) on Monday [agreed to decide](#) if mothers and fathers may be treated differently in determining whether their children may claim American citizenship.

The case involves Ruben Flores-Villar, who was born in Tijuana, Mexico, but was raised by his father and grandmother, both American citizens, in San Diego. His mother was Mexican, and his parents were not married.

Mr. Flores-Villar tried to avoid deportation by claiming American citizenship. The United States Court of Appeals for the Ninth Circuit, in San Francisco, [rejected](#) that claim under a law that spelled out different requirements for mothers and fathers whose children were born abroad and out of wedlock to a partner who was not an American citizen.

The law, since amended, allowed fathers to transmit citizenship to their children only if the fathers had lived in the United States before the child was born for a total of 10 years, five of them after age 14. Mothers were required to have lived in the United States for a year before their child was born. (The amended law kept the general system but shortened the residency requirement for fathers.)

Mr. Flores-Villar's father was 16 when his son was born, making it impossible for him to fulfill the part of the law requiring five years of residency after age 14.

Mr. Flores-Villar [argued](#) that the differing treatments violated equal protection principles. The Supreme Court has said that sex-based classifications are permissible only if they serve important governmental goals and are substantially related to achieving those goals.

In 2001, the Supreme Court upheld a law that imposed differing requirements in a similar situation. In that case, [Nguyen v. Immigration and Naturalization Service](#), a closely divided court said that American fathers of children born out of wedlock abroad had to get a court order establishing paternity or swear to it under oath for their children to obtain American citizenship. American mothers were not subject to that requirement.

Mr. Flores-Villar said that decision turned on biological factors concerning the establishment of paternity that are not present in his case, *Flores-Villar v. United States*, No. 09-5801.