



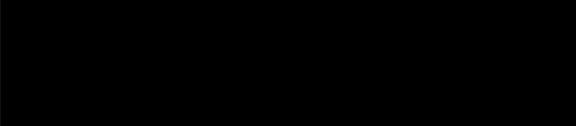
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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: [Redacted]

Office: New York

Date: 27 AUG 2002

IN RE: Applicant: [Redacted]

APPLICATION: Application for Naturalization under Section 322 of the Immigration and Nationality Act, 8 U.S.C. 1433

IN BEHALF OF APPLICANT: [Redacted]

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The applicant was born on January 2, 1982, in Ecuador. The applicant's father, Jorge Pizarro, was born in Ecuador and never had a claim to U.S. citizenship. The applicant's mother, Diana Prado, was born in Ecuador in October 1954 and became a naturalized U.S. citizen in September 1993. The applicant's parents never married each other. The applicant was lawfully admitted for permanent residence on May 12, 1991. The applicant is seeking to become a naturalized citizen under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1433.

The record contains a letter from the Service dated November 2, 1999, in which the Service requested the applicant's mother to submit evidence that the applicant was in her legal custody.

On February 11, 2000, the district director notified the applicant that the Service had failed to receive the requested documentation. The district director then denied the application for lack of prosecution and erroneously notified the applicant that the decision could be appealed.

8 C.F.R. 103.2(b)(13) provides that if all requested initial evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under 8 C.F.R. 103.5.

There is no appeal of the director's decision in the present matter. If the applicant has additional evidence for the record, such documentation should be forwarded on a motion to reopen to the office having jurisdiction over the present application (the office which rendered the initial decision). Since there is no appeal of the decision in the present matter, the appeal will be rejected.

ORDER: The appeal is rejected.