



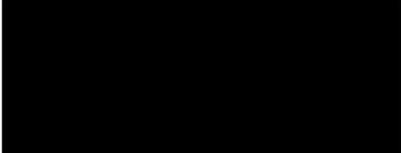
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U.S. Department of Justice

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: Tampa (MIA)

Date: AUG 16 2002

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship on Behalf of an Adopted Child under Section 341(a) of the Immigration and Nationality Act, 8 U.S.C. 1452(a)

IN BEHALF OF APPLICANT: Self-represented

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 Acting District Director, Miami, Florida, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The applicant was born [REDACTED] on April 19, 1999, in Romania. On April 17, 1996, [REDACTED] a United States citizen, married [REDACTED] a United States citizen. On December 13, 1999, they adopted the applicant. They filed a Petition to Classify Orphan as an Immediate Relative in behalf of the applicant, and that petition was approved on February 17, 2000. The applicant was issued an immigrant visa and was lawfully admitted for permanent residence on February 20, 2000. The applicant seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1431.

The acting district director noted that the applicant's adoptive parents did not personally see and observe the child prior to and during the adoption proceedings and the petition was approved for an orphan coming to the United States for adoption. The acting district director determined that the applicant had failed to establish that he had been readopted in the United States or that his adoption was recognized as full and final by a competent authority in the State of Florida. The acting district director denied the application accordingly.

On appeal, the applicant's father states that the Romanian adoption was full and final. The applicant's father provides evidence in the form of Florida Statute 63.192 which provides that a judgment of court terminating the relationship of parent and child or establishing the relationship by adoption issued pursuant to due process of law by a court of any other jurisdiction within or without the United States shall be recognized in the State of Florida.

Sections 320 and 322 of the Act were amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their 18th birthdays as of February 27, 2001.

Section 320(a) of the Act, effective on February 27, 2001, provides, in part, that a child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have fulfilled:

- (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
- (2) The child is under the age of eighteen years.
- (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Subsection (a) shall apply to a child adopted by United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).

The record establishes that (1) the applicant's adoption abroad was full and final, (2) the applicant was issued an immigrant visa and lawfully admitted for permanent residence, and (3) Florida Statute 63.192 recognizes the applicant's foreign adoption as if the judgment were issued by the State of Florida.

Therefore, the applicant has met the requirements of section 320 of the Act, and the appeal will be sustained.

ORDER: The appeal is sustained. The acting district director's decision is withdrawn, and the application is approved.