



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

AUG 19 2007

FILE [Redacted] Office: Miami Date:

IN RE: Applicant: [Redacted]

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

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 dismissed.

The applicant was born on February 4, 1981 in Brazil. The applicant's father, [REDACTED] was born in March 1951 in Brazil and never became a U.S. citizen. The applicant's mother, [REDACTED] was born in July 1953 in Brazil and became a U.S. citizen at birth through her mother, [REDACTED] who was born in the United States in October 1926. The applicant's parents married each other on November 10, 1977. 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 acting district director reviewed the record and concluded that the applicant had reached the age of 18 years and was no longer eligible for the benefit. The acting district director then denied the application accordingly.

On appeal, the applicant's mother states that the applicant was 16 years old and in the United States when the application was filed.

Section 322 of the Act was amended by the Child Citizenship Act of 2000, Pub.L. No. 106-395, 114 Stat. 1631 (CCA), effective February 27, 2001, and provides benefits only to those persons who had not yet reached their 18th birthday. The applicant was 20 years old on February 27, 2001.

Section 322 of the Act effective prior to February 27, 2001, provides, in part, that:

(a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

- (1) At least one parent is a citizen of the United States, whether by birth or naturalization.
- (2) The child is physically present in the United States pursuant to a lawful admission.
- (3) The child is under the age of 18 years and in the legal custody of the citizen parent.
- (4) If the citizen parent is an adoptive parent of the child, that child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a

child under subparagraph (E) or (F) of section 101(b)(1).

(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years-

(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after the age of fourteen years.

(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

8 C.F.R. 322.2(a) provides that to be eligible for "expeditious naturalization" under section 322 of the Act, a child on whose behalf an application for naturalization has been filed by a parent who is, at the time of filing, a citizen of the United States, must: (1) Be unmarried and under 18 years of age, both at the time of application and at the time of admission to citizenship.

The applicant is now over the age of 18 years and is ineligible for the benefit sought. The appeal will be dismissed

ORDER: The appeal is dismissed.