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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: Miami

Date:

AUG 20 2002

IN RE: Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 321 of the
Immigration and Nationality Act, 8 U.S.C. 1432

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 record reflects that the applicant was born on May 27, 1971, in Haiti. The applicant's father, [REDACTED] was born in Haiti in March 1937, became a lawful permanent resident in March 1980, but has never had a claim to U.S. citizenship. The applicant's mother, [REDACTED] was born in Haiti and never had a claim to United States citizenship. The applicant's immigrant visa packet contains a certificate of marriage showing that her parent's married each other in July 1955. The applicant was lawfully admitted for permanent residence on January 10, 1996. The applicant seeks a certificate of citizenship under section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1432.

The acting district director determined the applicant failed to establish that she met the requirements because neither of her parents was a U.S. citizen. The acting district director denied the application accordingly.

Section 321 of the Act was repealed on February 27, 2001. An applicant who was over the age of 18 on that date is ineligible to obtain the new benefits of the Child Citizenship Act (CCA) of 2000, Pub.L. 106-395, which allows for the naturalization of "at least one parent" to suffice while the child is under the age of 18. The CCA provides benefits only to those persons who had not yet reached their 18th birthday as of February 27, 2001. The applicant was 29 years old on February 27, 2001.

Former section 321(a) of the Act provided a child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if-
- (4) Such naturalization takes place while said child is under the age of 18 years; and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent

residence at the time of the naturalization of the parent last naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of 18 years.

The record establishes that neither of the applicant's parents became a naturalized U.S. citizen prior to her 18th birthday, and the applicant was 30 years old when she filed the application.

There is no provision under the law by which the applicant could have automatically acquired U.S. citizenship. Therefore, the appeal will be dismissed. This decision is without prejudice to the applicant seeking U.S. citizenship through normal naturalization procedures.

ORDER: The appeal is dismissed.