

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

Identifying data deleted to
prevent clearly unwarranted
invasion of privacy



FILE:

Office: New York

Date:

MAY 08 2003

IN RE: Applicant:



APPLICATION:

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

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

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 Administrative Appeals Office on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on November 30, 1928. The applicant's father, [REDACTED] was born in Peru in 1906 and never had a claim to U.S. citizenship. The applicant's mother, [REDACTED], was born in Peru in 1908 and never had a claim to U.S. citizenship. The applicant's parents married each other in September 1925. The applicant was lawfully admitted for permanent residence on August 28, 1991. The applicant seeks a certificate of citizenship under section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432.

The district director denied the application on April 17, 1998, under section 321 of the Act because the applicant failed to establish that her parents were ever naturalized.

In the appeal filed on June 25, 1998, the applicant states that she was sent the wrong application and she submits a Form N-400 Application for Naturalization for adjudication. She also attached a medical certification for disability exceptions.

Section 321(a) of the Act in effect when the Form N-600 application was filed provided, in part, that a child born outside of the United States of alien parents, or of an alien parent and a citizen parent who subsequently lost citizenship of the United States, becomes a citizen of the United States upon the 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 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 such child is under the age of eighteen 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 (1) of this subsection, or the parent naturalized under clause (2) of (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

It is clear from the record that the applicant is seeking to apply for naturalization under section 310 of the Act, 8 U.S.C. §. 1421, and she was not seeking a certificate of citizenship. The applicant

filed the wrong application, and the Bureau noted that error during the interview.

Section 291 of the Act, 8 U.S.C. §. 1361, provides that the burden of proving eligibility remains entirely with the applicant.

Although the appeal will be dismissed, as the applicant is not eligible for a certificate of citizenship, this decision is without prejudice to her renewing her application for naturalization in another proceedings.

ORDER: The appeal is dismissed.