U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: BALTIMORE, MD Date: JUN 09 2008

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship.

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Interim and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born out of wedlock on in Jamaica. The applicant's mother, Carol Griffiths Jones, was born in Jamaica in and she became a naturalized United States (U.S.) citizen on The applicant's father, was born in Jamaica in and he is not a U.S. citizen. The applicant entered the United States pursuant to a lawful admission for permanent residence on He seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The acting interim district director (AIDD) found that the applicant was ineligible for citizenship benefits under section 320 of the Act because he was not under the age of eighteen when the provision became effective. The AIDD found further that the applicant had failed to establish that he was eligible for citizenship under section 321 of the former Immigration and Nationality Act (former Act) because he was a legitimated child and only one of his parents was a naturalized U.S. citizen.

On appeal, counsel asserts that the applicant's mother became a U.S. citizen prior to his eighteenth birthday, and that the provisions set forth in section 320 of the Act should therefore be applied retroactively to the applicant. Counsel additionally asserts that the applicant's brother, recently obtained a U.S. passport and counsel submitted a copy of the passport as further evidence that the applicant is entitled to a certificate of citizenship. Counsel did not address or dispute the denial of citizenship under section 321 of the former Act.

On appeal, counsel also requests oral argument before the AAO. The AAO notes that under 8 C.F.R. § 103.3(b), counsel must explain in writing why oral argument is necessary. Citizenship and Immigration Services (CIS) has sole authority to grant or deny a request for oral argument and will grant such argument only in cases that involve unique factors or issues of law that cannot be adequately addressed in writing. In this case, no cause for oral argument has been stated or shown. The request will therefore be denied.

The Child Citizenship Act of 2000 (CCA), which took effect on presently allows a child born outside of the U.S. to automatically become a citizen of the United States upon fulfillment of certain conditions. Under section 320 of the Act, a child born outside of the U.S. automatically becomes a U.S. citizen if:

(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.

Counsel asserts that, although the applicant was over the age of eighteen on the provisions of section 320 of the Act should be applied to him retroactively. Counsel provides no legal argument or evidence on appeal to support his assertions. Moreover, the AAO finds that legal precedent court decisions have clearly held that the provisions of the CCA are not retroactive and that the amended provisions of section 320 apply only to persons who were not yet eighteen-years-old as of *See Matter of*

Because the applicant was eighteen years old on the AAO finds that he is not eligible for the benefits of section 320 of the Act.[1]

The applicant also does not qualify for a certificate of citizenship pursuant to section 321 of the former Act. Section 321 of the former Act provided, in pertinent part, that:

> (a) 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:
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> (1) The naturalization of both parents; or
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> (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 evidence in the record does not establish that the applicant's father became a naturalized U.S. citizen or that he is deceased. Moreover, as noted in the AIDD's decision the applicant's birth certificate clearly establishes the applicant's father's paternity over the applicant. Pursuant to the Children Act, all distinctions between legitimate and illegitimate children in Jamaica are abolished once paternity over a child is established. *See* (BIA 1981). Section 8 of the Jamaican Act states that paternity may be demonstrated through specific documents, including a birth certificate reflecting the father's name. Accordingly, the AAO finds that the applicant's paternity has been established by legitimation, and that he therefore does not meet the requirements set forth in section 321(a)(3) of the former Act.

8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant has failed to meet his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.

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[1] The AAO notes that the applicant's brother was born on and that he was therefore under the age of eighteen on and eligible for benefits under the CCA.