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U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: NEW YORK, NEW YORK Date: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Ghana on June 19, 1985. The applicant's father, [REDACTED] was born in Ghana on April 30, 1943, and he became a naturalized U.S. citizen on November 28, 1984. The applicant's mother, [REDACTED] was born in Ghana on June 21, 1951, and she is not a U.S. citizen. The applicant's parents did not marry. The record reflects that the applicant was admitted into the United States on May 7, 1995, as a lawful permanent resident. He presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1433.

The district director concluded that the applicant was ineligible for citizenship under section 320 of the Act because he failed to establish that he was legitimated by his U.S. citizen father, and therefore did not meet the definition of "child" as set forth in section 101(c) of the Act, 8 U.S.C. § 1101(c).

On appeal, the applicant states that he is the biological son of his U.S. citizen father, and that he has been under his father's care.

Section 320 of the Act states that a "child" born outside of the U.S. may automatically become a citizen of the United States upon fulfillment of the following conditions:

- (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.

Section 101(c) of the Act states that:

- (1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere . . . if such legitimation . . . takes place before the child reaches the age of 16 years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), and the child is in the legal custody of the legitimating . . . parent or parents at the time of such legitimation.

The present record reflects that the applicant was born out of wedlock, and the applicant provided no evidence to establish that he was legitimated by his U.S. citizen father, in accordance with the requirements set forth in section 101(c) of the Act. Accordingly, the applicant failed to establish that he meets the definition of "child" for section 101(c) and section 320 of the Act purposes.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met his burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.