



U.S. Citizenship
and Immigration
Services

Handwritten initials: E2



FILE:



Office: MIAMI, FLORIDA

Date: **OCT 26 2004**

IN RE:

Applicant:



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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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

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prevent unauthorized
invasion of personal privacy**

DISCUSSION: The application was denied by the Assistant District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the Assistant District Director for further action consistent with this decision.

The record reflects that the applicant was born in Cuba on May 6, 1987. The applicant's mother, [REDACTED] was born in Cuba, and she became a naturalized U.S. citizen on September 29, 1999, when the applicant was twelve years old. The applicant's father, [REDACTED] was born in Cuba on September 22, 1962. The record contains no evidence to indicate that he is a U.S. citizen. The record reflects that the applicant was admitted into the United States on June 16, 1994, when she was seven years old. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The assistant district director found the applicant had failed to provide evidence establishing that her parents had married or obtained a divorce, or that she was in the legal and physical custody of her U.S. citizen parent. The application was denied accordingly.

On appeal, the applicant, through her mother, asserts that she is submitting the original "Final Judgment of Dissolution of Marriage" of her parents as well as copies of both of her parent's certificates of naturalization, and an affidavit from her father.

Section 320 of the Act states, in pertinent part that:

(a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

- (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, 8 U.S.C. § 1101(c), states in pertinent part that:

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 . . . and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

The AAO notes that the notice of appeal contained in the record is a copy, and not an original. Moreover, the AAO notes that the record does not contain the marriage or divorce decree. Nor does the record contain any of the other documents that the applicant states she submitted on appeal.

Because the record does not contain the original Notice of Appeal filed by the applicant and because the record is missing the documents that the applicant claims she submitted with her original Notice of Appeal,

the AAO finds it necessary to remand the present matter to the Miami District Office for submission of a properly prepared record of proceedings.

ORDER: The matter is remanded to the assistant district director for further action consistent with this decision.