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



U.S. Citizenship
and Immigration
Services

E 23

[Redacted]

FILE:

[Redacted]

Office: SALT LAKE CITY, UTAH

Date: APR 01 2005

IN RE:

Applicant:

[Redacted]

APPLICATION: Application for Certificate of Citizenship under § 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.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Interim District Director, Salt Lake City, Utah and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born in Mexico on July 10, 1987. The applicant's mother was born in Mexico and is not a U.S. citizen. The applicant's father was also born in Mexico, and he became a naturalized U.S. citizen on June 12, 1997, when the applicant was nine years old. The record reflects that the applicant's parents were married in Mexico in December 1979 and have not divorced. The applicant entered the United States on or about September 2, 1992 without inspection, but he subsequently obtained lawful permanent resident status. He presently seeks a certificate of citizenship under § 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The interim district director concluded that the applicant had failed to establish he resided in the U.S. in the legal custody of his U.S. citizen parent, as required by § 320 of the Act. The application was denied accordingly.

On appeal, the applicant indicates, through his father, that his father now lives in Utah. The applicant submits a copy of his father's Utah driver's license, issued on July 22, 2003, prior to the denial of this application, a 2003 W-2 form, and employment records for agencies located in Salt Lake City. All these documents list the same address as the applicant's.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant was thirteen years old on February 27, 2001, he meets the age requirement for benefits under the CCA.

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.

As of the date of this adjudication, the applicant has not yet reached his eighteenth birthday. The record reflects that the applicant entered the United States in 1992, and that the applicant's father became a naturalized U.S. citizen in 1997. The applicant has lawful permanent resident status. The documentation submitted on appeal establishes that he is now living in the legal and physical custody of his U.S. citizen father. The AAO finds that the applicant has overcome the interim district director's reason for denying the application, and has established that he complies with all of the requirements of § 320 of the Act. The applicant is thus eligible for a certificate of citizenship.

ORDER: The appeal is sustained.