



U.S. Citizenship
and Immigration
Services

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A handwritten signature in black ink, appearing to be "R. P. Wiemann".

FILE: [REDACTED] Office: NEW YORK, NY Date: JAN 31 2005

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, reading "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The information contained on the applicant's N-600, Application for Certificate of Citizenship (N-600 application) reflects that the applicant was born in Yemen on [REDACTED]. The N-600 application reflects that the applicant's father, [REDACTED], was born in Yemen, and that [REDACTED] became a naturalized U.S. citizen on June 8, 1996. The N-600 application reflects that the applicant's mother was born in Yemen and that she has no claim to U.S. citizenship. The N-600 application reflects further that the applicant's parents were married in Yemen on August 1, 1978. The applicant was admitted into the United States as a lawful permanent resident on January 18, 2003. He presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the Yemeni birth certificate submitted by the applicant had been altered and was therefore not probative of the parent-child relationship between the applicant and [REDACTED]. Accordingly, the district director concluded that the applicant had failed to establish he qualified for a certificate of citizenship, and the application was denied.

On appeal, counsel asserts that DNA blood tests were done and accepted by the Immigration and Naturalization Service (Service, now U.S. Citizenship and Immigration Services, CIS) before the applicant was accorded lawful permanent resident status in the United States, and that proof of the parent-child relationship between the applicant and [REDACTED] contained in the applicant's alien file.

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.

The record contains an investigative report ("Report") conducted by the American Embassy, Consular Section in Sanaa, Yemen, dated September 29, 2003. The Report states in pertinent part that:

[T]he birth certificate for the beneficiary [the applicant] appears to be lawfully issued by Taiz Civil Status Office. However, the certificate was tampered with after its issuance. The following information [was] altered: the first and middle name of the birth certificate bearer, the sex, place of birth, residence address of the father, and the mother's first [and] middle name.

No documentation or evidence was submitted on appeal to overcome the fraud investigation report finding that alterations had been made on the applicant's birth certificate. The AAO therefore finds that the birth certificate submitted by the applicant was materially altered, and that the birth certificate is therefore unreliable and not probative of a biological relationship between the applicant and [REDACTED].

Moreover, the AAO finds that the record contains no evidence to establish that DNA evidence proving [REDACTED] paternal relationship to the applicant was submitted by the applicant, or accepted by the Service (CIS), prior to

issuance of the applicant's lawful permanent resident status in 2003. The AAO finds further that the record contains no other evidence to establish that the applicant is [REDACTED] "child" as defined by section 101(c) of the Act, 8 U.S.C. § 1101(c).¹

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 failed to meet his burden in the present matter. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.

¹ Section 101(c) of the Act states that:

(c) As used in title III-

(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, and, except as otherwise provided in sections 320, and 321 of title III, a child adopted in the United States, if such legitimation or adoption 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 or adopting parent or parents at the time of such legitimation or adoption.