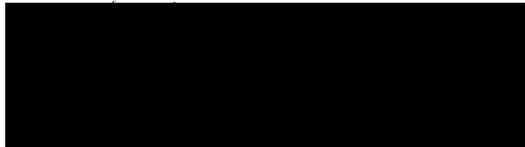




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



*EA*

FILE: [REDACTED] Office: MIAMI, FLORIDA Date: **AUG 08 2006**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under § 321 of the former Immigration and Nationality Act; 8 U.S.C. § 1432.

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on May 26, 1957 in the Philippines. The applicant's mother was born in the Philippines, and she became a naturalized U.S. citizen in 1977. The applicant's father also became a U.S. citizen in 1967. The applicant entered the United States in 1960, and he became a lawful permanent resident in 1968. The applicant seeks a certificate of citizenship pursuant to section 321 of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1432.

The district director concluded that the applicant was statutorily ineligible for a certificate of citizenship under § 321 of the former Act, 8 U.S.C. § 1433, because he turned eighteen years old prior to his mother's naturalization. The application was denied accordingly. On appeal, the applicant asserts that he should be granted a certificate of citizenship, because his mother did not intentionally delay naturalizing until the applicant was twenty. The applicant explains that his mother simply did not understand the naturalization process, and his father did not handle the matter on her behalf in a timely manner.

Although § 321 of the former Act, 8 U.S.C. § 1432, was repealed by the Child Citizenship Act of 2000, all persons who acquired citizenship automatically under § 321 of the former Act, as in force prior to February 27, 2001, may apply for a certificate of citizenship at any time. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001).

Former section 321 of the 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:

- (1) The naturalization of both parents; or
- (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 record reflects that the applicant's father became a naturalized citizen prior to the applicant's eighteenth birthday, but his mother did not naturalize until the applicant was twenty years old. The AAO acknowledges the applicant's explanation regarding his mother's delay in naturalizing; however, Citizenship and Immigration Services does not have the authority to make an exception to the requirements for citizenship, which are mandated by Congress, when an applicant does not meet the relevant statutory provisions set forth

in the Act. *See generally, Iddir v. INS*, 301 F.3d 492 (7<sup>th</sup> Cir. 2002). As the applicant fails to meet the requirements for U.S. citizenship set forth at § 321(a)(4) of the former Act, the appeal will be dismissed.

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

**ORDER:** The appeal is dismissed.