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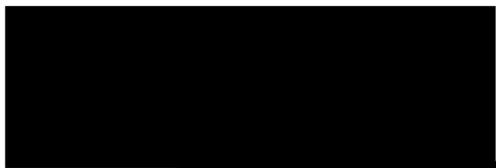
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 01 2006

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 321 of the former Immigration and Nationality Act; Pub. L. 82-414, 66 Stat. 245 (June 27, 1952).

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, 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 Trinidad on April 22, 1977. The record does not show that the applicant's mother, [REDACTED], is a U.S. citizen. The applicant's father, [REDACTED] was born in St. Vincent on July 12, 1941, and he became a naturalized U.S. citizen on August 10, 1990, when the applicant was 13 years old. The record reflects that the applicant's parents were never married. The applicant was admitted into the United States as a lawful permanent resident on October 14, 1988, when he was eleven years old. He presently seeks a certificate of citizenship under section 321 of the former Immigration and Nationality Act (the former Act), Pub. L. 82-414, 66 Stat. 245 (June 27, 1952).

The director concluded that the applicant failed to establish that he became a U.S. citizen by operation of law due to the fact that both of his parents have not become U.S. citizens, as required by section 321 of the former Act. *Decision of the Director*, dated January 3, 2006. The application was denied accordingly.

On appeal, the applicant's father recounts the facts of the present matter, including the fact that the applicant's parents were never married. *Statement from Applicant's father on Appeal*, submitted January 19, 2006. The applicant's father contends that he legitimated the applicant under the law of New York and Trinidad, and that the applicant resides in his physical and legal custody. *Id.* The applicant's father asserts that the applicant has shown that he is eligible for a certificate of citizenship. *Id.*

Section 321 of the former Act provides the following:

Children born outside United States of alien parents; conditions for automatic citizenship

(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;
- (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 such child is unmarried and under the age of eighteen 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 (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in

the United States while under the age of eighteen years.

Upon review, as noted by the director, the applicant has not shown that he meets section 321(a)(1) of the former Act, as he has not established that his mother has become a U.S. citizen. The applicant has not asserted that his mother is deceased, thus he has not shown that he meets section 321(a)(2) of the former Act. As the applicant's parents were never married, they have not had a legal separation as contemplated by section 321(a)(3) of the former Act. Nor has the applicant shown that his mother naturalized, as contemplated by section 321(a)(3) of the former Act. Accordingly, the applicant has not established that he became a U.S. citizen by operation of law under section 321(a) of the former Act.

It is noted that, under section 322 of the former Act, the applicant's father could have applied for a certificate of citizenship on behalf of the applicant. However, such application must have been made prior to the applicant's eighteenth birthday. Section 322(a)(3) of the former Act. As the applicant was 28 years old on June 30, 2005, the date that his Form N-600 application was filed, he did not meet the age requirement of section 322(a)(3) of the former Act.

It is further noted that Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA superceded section 321(a) of the former Act, and eliminated the provision addressing the requirement that both parents become U.S. citizens in order for an individual born out-of-wedlock to become a U.S. citizen by operation of law. However, the CCA benefits persons who had not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant was 23 years old on February 27, 2001, he does not meet the age requirement for benefits under the CCA.

Based on the foregoing, the applicant has not shown that he is eligible for a certificate of citizenship pursuant to the present Form N-600 application.

The regulation at 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.