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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: LOS ANGELES, CA Date: DEC 04 2006

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The record reflects that [REDACTED] was born on August 26, 1984 in Taipei, Taiwan. He was legally adopted by [REDACTED] and her husband, [REDACTED] on April 10, 1998 in Los Angeles Superior Court when he was 13 years old. [REDACTED] adoptive mother, [REDACTED] became a U.S. citizen on July 11, 1991; his adoptive father is a U.S. lawful permanent resident. [REDACTED] acquired lawful permanent resident status as of September 12, 2000, when he was 16 years old. He seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The Form N-643, Application for Certificate of Citizenship on Behalf of Adopted Child was filed on April 2, 2001. On May 14, 2004, the interim district director denied the application after finding the evidence of record failed to establish that [REDACTED] had met all of the residence requirements at 8 C.F.R. § 204.2(d)(vii)(A) and (B) or that his adoption fully satisfied all of the requirements of 8 C.F.R. § 341.1. The interim director specifically noted the submission of a 2002 household register, which identified Ms. Hsu as living in Taiwan with his birth parents.

On appeal, [REDACTED] adoptive mother states, in part:

We went through [the] Country of Los Angeles Dept. of Children and Family Services to adopt [REDACTED] Judge Howard Scriven, Jr. granted the adoption. We did not change the "Household Certificate" (Family Registry) in Taiwan because we didn't know it was necessary. We thought it's [sic] only necessary to update U.S. legal documents

Based on its review of the record, the AAO finds the interim district director to have treated the Form N-643 as an immigrant visa petition, rather than an application for a certificate of citizenship. In her denial, the director cites the regulation at 8 C.F.R. § 204.2(d)(vii), which identifies the evidence required to support an immigrant visa petition filed for an adopted child. She also notes that [REDACTED] has failed to provide evidence to establish that his 1998 adoption has met the requirements at 8 C.F.R. § 341.1.

This matter does not, however, relate to the filing of an immigrant visa petition on behalf of [REDACTED]. [REDACTED] seeks a certificate of citizenship based on the naturalization of his adoptive mother under section 320 of the Act. Accordingly, he is not subject to the evidentiary requirements at 8 C.F.R. § 204.2(d)(vii).

The regulation at 8 C.F.R. § 341.1 outlines the general requirements for filing an application for a certificate of citizenship. It states that the application shall be supported by documents that establish the claimed citizenship, such as an adoption certificate. The record contains the proper documents to establish the applicant's adoption and the validity of the adoptive relationship was established with the approval of the Form I-130, Petition for Alien Relative.. There is no indication in the record that the petition has been revoked.

The AAO now turns to the requirements of section 320 of the Act, which states in pertinent part:

- (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.

(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).

As defined in section 101(b)(1)(E) of the Act, the term "child" means an unmarried person under twenty-one years of age who is-

- (i) [A] child adopted under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: Provided, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act

The record reflects that the applicant was adopted by his U.S. citizen mother in 1998 when he was 13 years old and that he acquired lawful permanent resident status in 2000 at the age of 16. The Form I-130 included in the record, approved on September 12, 2000, establishes compliance with the custody and residence requirements of subsections 320(a)(3) and 101(b)(1)(E) of the Act that are noted above. Accordingly, the applicant has established that he is eligible for a certificate of citizenship under section 320 of the Act.

The regulation at 8 C.F.R. § 341.2(c) places the burden of proof on the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has met his burden. The appeal will be sustained.

ORDER: The appeal will be sustained.