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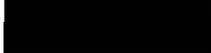
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CLEVELAND, OHIO

DEC 06 2006

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Cleveland, Ohio, 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 the Dominican Republic on May 7, 1979. The applicant's father, [REDACTED] was born in the Dominican Republic on October 1, 1930, and he became a naturalized U.S. citizen on August 19, 2003, when the applicant was 24 years old. The applicant's mother, [REDACTED] was born in the Dominican Republic on August 12, 1940, and she became a naturalized U.S. citizen on July 21, 2004, when the applicant was 25 years old. The applicant's grandmother, [REDACTED] was born on March 15, 1926, and she became a naturalized U.S. citizen on October 14, 1981. The applicant presently seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant failed to establish that his parents became U.S. citizens prior to his eighteenth birthday, and thus the applicant failed to show that he is eligible for a certificate of citizenship based on the citizenship of his parents. *Decision of the District Director.* The application was denied accordingly.

On appeal, the applicant notes that his grandmother became a naturalized U.S. citizen prior to his eighteenth birthday, and thus he is eligible for a certificate of citizenship based on the naturalization of his grandmother.

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.

Section 322 of the Act states in pertinent part that:

- (a) A parent who is a citizen of the United States (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 1431 of this title. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:
  - (1) At least one parent (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.

- (2) The United States citizen parent -
- (A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or
  - (B) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.
- (3) The child is under the age of eighteen years.
- (4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).
- (5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

The applicant must meet all of the requirements of section 320 of the Act simultaneously in order to qualify for a certificate of citizenship under this provision. Upon review, the record reflects that the applicant was over age eighteen at the time that each of his parents became U.S. citizens. Thus, he did not meet section 320(a)(2) of the Act simultaneously with section 320(a)(1) of the Act. Thus, the applicant has failed to establish that he became a U.S citizen based on the naturalization of his parents.

The applicant asserts that he is eligible for a certificate of citizenship based on the naturalization of his grandmother. Section 322 of the Act does allow an applicant to benefit from the fact that his grandparent is a U.S. citizen when his U.S. citizen parent or parents are deceased. Section 322(a) of the Act. Section 322 of the Act requires an applicant to be residing outside of the United States, and to be under eighteen years old. Sections 322(a)(3), (4) of the Act. As the applicant resides in the United States, and he was age 26 at the time his application was filed, he does not meet these requirements. Thus, the fact that the applicant's grandmother was a U.S. citizen does not confer U.S. citizenship to the applicant.

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.