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**U.S. Citizenship
and Immigration
Services**

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FILE: Office: CALIFORNIA SERVICE CENTER Date: SEP 20 2006

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 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 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 on February 15, 1962, in Antigua. The applicant's father, [REDACTED] was born in Antigua on June 22, 1929, and he became a naturalized U.S. citizen on July 19, 1971. The applicant's mother, [REDACTED] was born in Antigua on March 5, 1934, and she became a naturalized U.S. citizen on June 21, 1971. The applicant presently 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 section 321 of the former Act because she did not become a permanent resident of the United States until after she reached age eighteen. The application was denied accordingly.

On appeal, the applicant indicates that her parents naturalized when she was a minor. *Statement from Applicant on Form I-290B*, dated May 20, 2006. She further stated that she received correspondence from the Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) informing her that she acquired U.S. citizenship through her parents. *Id.*

The record contains a copy of the applicant's birth certificate; a copy of the applicant's permanent resident card; copies of the applicant's parents' birth certificates, and; copies of the applicant's parents' naturalization certificates. The entire record was considered in rendering this decision.

Section 321 of the former Act provides, in pertinent part:

(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 applicant must meet all of the requirements of section 321 of the former Act simultaneously in order to qualify for a certificate of citizenship under this provision. The record reflects that the applicant entered the United States as a permanent resident on January 7, 1981, when she was eighteen years old, and she did not reside in the country prior to that date. Accordingly, the applicant was not residing in the United States at the time her

parents naturalized or while she was under age eighteen. Accordingly, she does not meet the requirements of section 321(a)(5) of the former Act and the present application may not be approved.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 has not met her burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

¹ The AAO notes that the present decision is without prejudice to the applicant's filing, if eligible, an N-400, Application for Naturalization, pursuant to section 316 of the Act, 8 U.S.C. § 1427. The applicant previously filed a Form N-400 application, yet it was denied based on a finding that the applicant was already a U.S. citizen due to the naturalization of her parents. However, as discussed above, the applicant did not derive citizenship based on her parents' naturalization, and the stated reason for the denial of her Form N-400 application was erroneous. The applicant is free to file a new Form N-400 application, or a Motion to Reconsider her prior Form N-400 application based on an erroneous application of law.