

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

EL

APR 18 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

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:

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application denied.

The record reflects that the applicant was born in Maracay, Venezuela on December 31, 1989. The applicant's mother, [REDACTED], became a naturalized U.S. citizen on August 10, 2004. On this basis, the applicant seeks a Certificate of Citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

In a decision dated August 28, 2006, the director concluded that the applicant had failed to establish he resided in the United States pursuant to a lawful admission for permanent residence as required by section 320 of the Act. The application was denied accordingly.

On appeal the applicant submits evidence that he was granted U.S. lawful permanent resident status (LPR status) on September 13, 2006. The applicant asserts, through his mother, that he obtained LPR status before the director made a final decision in his case, and that he therefore met the eligibility requirements for citizenship under section 320 of the Act.

Section 320 of the Act provides 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.

The regulation provides in pertinent part at 8 C.F.R. § 103.2(b)(1) that:

An applicant or petitioner must establish eligibility for a requested immigration benefit. An application or petition form must be completed as applicable and filed with any initial evidence required by regulation or by the instructions on the form. . . .

The regulation provides at 8 C.F.R. § 103.2(b)(8) that:

If there is evidence of ineligibility in the record, an application or petition shall be denied on that basis. . . .

The regulation clearly reflects that an applicant must establish his or her eligibility for a requested immigration benefit at the time that the application or petition is filed. In the present matter, the applicant filed his Form N-600, Application for Citizenship (N-600 Application) on September 23, 2004. The applicant established that he resided with his mother in the United States, and that his mother became a naturalized U.S. citizen on August 10, 2004, prior to the filing of his Form N-600 application. The applicant also established that he was under the age of eighteen when his mother became a U.S. citizen and prior to the filing of his

Form N-600 application. The applicant failed, however, to establish that he had LPR status in the U.S. prior to the filing of his N-600 application. It is noted that prior to making a final decision in the present matter, the director made two written requests for evidence of the applicant's LPR status in the United States. The applicant failed, however, to provide any evidence to establish that he had obtained LPR status in the United States at the time that his N-600 application was filed, or prior to the August 28, 2006, final decision date in his case. Rather, the LPR status evidence submitted on appeal reflects that the applicant obtained his LPR status on September 13, 2006, two years after the initial filing of his N-600 application, and more than two weeks after a final decision was made in his case. Because the record contained no evidence establishing that the applicant was residing in the U.S. pursuant to a lawful admission for permanent residence when he filed his N-600 application, the director correctly determined that the applicant was statutorily ineligible for citizenship under section 320 of the Act.

The burden of proof in these proceedings rests solely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In the present matter, the applicant failed to overcome the grounds of denial set forth in the district director's decision. The appeal will therefore be dismissed and the application denied.

ORDER: The appeal is dismissed. The application is denied.¹

¹ The present appeal is dismissed without prejudice to the applicant's reapplying for a Certificate of Citizenship under section 320 of the Act.