



U.S. Citizenship
and Immigration
Services

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FILE:

Office: NEW YORK

Date: FEB 26 2007

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, 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 Nicaragua on May 29, 1987. The applicant's father, [REDACTED] was born in Nicaragua on February 25, 1968, and he became a naturalized U.S. citizen on June 13, 2003, when the applicant was 16 years old. The applicant does not assert, and the record does not reflect, that her mother is a U.S. citizen. The applicant indicated on Form N-600 that her parents were not married when she was born. The applicant became a permanent resident of the United States on February 25, 2004, when he was 16 years old. She 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 she resided in the United States in the physical custody of her U.S. citizen parent, as required by section 320 of the Act. The application was denied accordingly.

On appeal, the applicant's father asserts that he provided sufficient evidence to show that the applicant resides with him in Brooklyn, New York. *Statement from the Applicant's Father*, dated August 15, 2005.

The record contains a statement from the applicant's father; a copy of the applicant's permanent resident card; a copy of the applicant's birth certificate; a copy of the applicant's father's naturalization certificate; a copy of a mailing receipt from the U.S. Postal Service reflecting that something was mailed on June 13, 2005; a copy of a Form I-797C notifying the applicant of the approval of her permanent resident status; a copy of a letter mailed to the applicant with her permanent resident card, and; a copy of a letter mailed to the applicant with her social security card. The entire record was considered in deciding this appeal.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant was under age 18 on February 27, 2001, she meets the age requirement for benefits under the CCA.

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.

During an interview in connection with the present application, the applicant stated that she resides and attends school in Chicago, Illinois. Yet, the applicant's father stated that he resides in Brooklyn, New York. Accordingly, the district director found that the applicant failed to establish that she resided "in the legal and physical custody of the citizen parent" as required by section 320(a)(3) of the Act .

The district director provided the applicant time within which to submit additional documentation of her place of residence. **The district director noted that no further documentation was received.** On appeal, the applicant's father asserts that he did in fact provide additional documentation in response to the district director's request. As evidence of his response, he submits a copy of a mailing receipt from the U.S. Postal Service reflecting that something was mailed on June 13, 2005, as well as a U.S. Postal Service Delivery Confirmation Receipt. However, from these receipts the AAO is unable to determine what was mailed. Further, while the receipts show that something was mailed, they do not serve as confirmation that it was received. The record does not contain evidence to show that the applicant's father received additional documentation in connection with the delivery confirmation receipt to verify that the article was delivered. The file does not contain a response to the district director's request.

On appeal, the applicant's father now submits copies of documents that he indicated were submitted in response to the district director, including a copy of a Form I-797C notifying the applicant of the approval of her permanent resident status; a copy of a letter mailed to the applicant with her permanent resident card, and; a copy of a letter mailed to the applicant with her social security card. However, these documents do not clearly reflect that the applicant has resided with her father since she became a permanent resident. Specifically, the Form I-797C and letter mailed to the applicant with her permanent resident card both were addresses to the applicant in the care of her father rather than directly to the applicant. Thus, they do not confirm that she was residing at the address. Further, the letter mailed to the applicant with her social security card is undated, thus it does not serve as evidence that the applicant has resided with her father since she became a permanent resident.

The record contains no other documents to clearly show the applicant's residence. As the applicant testified that she resides and attends school in Chicago, the preponderance of the evidence shows that she does not reside with her father in New York. Based on the foregoing, the applicant has not shown that she has resided with her U.S. citizen father since she became a permanent resident, such that she met the requirements of section 320(a)(3) of the Act. For this reason, the application may not be approved.

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 her burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.