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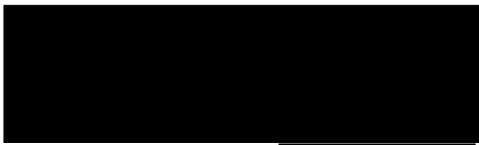
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: WASHINGTON, DC

Date: JUL 27 2007

IN RE:

Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 320 of the
Immigration and Nationality Act; 8 U.S.C. § 1430.

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, Washington, D.C., 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 March 20, 1986 in India. The applicant was admitted to the United States as a lawful permanent resident on November 1, 1998. The applicant's parents are [REDACTED] and [REDACTED]. The applicant's mother became a naturalized U.S. citizen on March 21, 2005, when the applicant was 19 years old. The record contains a receipt for the applicant's father's Application for Naturalization, dated January 13, 2004. There is no evidence in the record to suggest that the applicant's father naturalized prior to March 20, 2004, when the applicant reached the age of 18. On March 23, 2004, the applicant submitted a Form N-600 Application for Certificate of Citizenship. The applicant presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director denied the applicant's citizenship claim upon finding that neither of his parents had naturalized prior to his 18th birthday. The application was denied accordingly.

On appeal, the applicant indicates that he "was under 18 years old when [he] applied" and "because of delay in processing [he] reached the age of 18." See Statement of the Applicant on Form I-290B, Notice of 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 had not yet reached their 18th birthdays as of February 27, 2001. Because the applicant was under 18 years of age on February 27, 2001, he meets the age requirement for benefits under the CCA.

Section 320 of the Act, 8 U.S.C. § 1431, 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.
- (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 1101(b)(1) of this title.

The record in this case reflects that neither of the applicant's parents became U.S. citizens prior to the applicant's 18th birthday. The AAO therefore finds that the applicant is ineligible for citizenship under the cited provision, or any other provision of the Act.

The applicant claims that delays in processing his case caused him to become 18 prior to the adjudication of his application. The AAO notes that the instant Application for Certificate of Citizenship was filed within days of the

applicant's 18th birthday. The AAO notes further that the length in processing the instant application is irrelevant, as U.S. citizenship under section 320 of the Act, 8 U.S.C. § 1431, is automatically acquired while under the age of 18, regardless of when the Certificate of Citizenship is requested or issued. In any event, the AAO notes that the applicant seems to be requesting that U.S. citizenship be granted on the basis of an equitable estoppel theory. The AAO is without authority to apply the doctrine of equitable estoppel in this or any other case. *See Matter of Hernandez-Puente*, 20 I&N Dec. 335 (BIA 1991) (stating that the AAO, like the Board of Immigration Appeals, is "without authority to apply the doctrine of equitable estoppel against the Service [CIS] so as to preclude it from undertaking a lawful course of action that it is empowered to pursue by statute and regulation"). The jurisdiction of the AAO is limited to that authority specifically granted through the regulations at Volume 8 of the Code of Federal Regulations (8 C.F.R.) section 103.1(f)(3)(iii).

The requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress, and CIS lacks statutory authority to issue a Certificate of Citizenship when an applicant fails to meet the relevant statutory provisions set forth in the Act. A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; *see also United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967).

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. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is "probably true" or "more likely than not." *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). Given the fact that neither of the applicant's parents was naturalized before the applicant attained the age of 18, he failed to meet his burden of proof and did not acquire citizenship under section 320 of the Act, 8 U.S.C. § 1431.

The AAO concludes that the applicant has failed to meet his burden to establish, by a preponderance of the evidence, that he can derive U.S. citizenship through a U.S. citizen parent. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.¹

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.