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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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JUN 04 2007

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

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 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 in Nigeria on October 24, 1988. The applicant's father, [REDACTED] was born in Nigeria on November 15, 1946, and he became a naturalized U.S. citizen on January 23, 2004, when the applicant was 15 years old. The applicant does not assert, and the record does not reflect, that her mother is a U.S. citizen. The applicant was admitted into the United States on December 4, 2003 in V-2 status as the child of a permanent resident. She presently seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that he derived citizenship from her father.

The district director concluded that the applicant failed to establish he has resided in the United States pursuant to a lawful admission for permanent residence, thus he did not become a U.S. citizen by operation of law under section 320 of the Act.

On appeal, the applicant's father states that the applicant is his legal son, and he has resided with him since December 2003. *Statement from Applicant's Father on Form I-290B, dated August 18, 2006.* The applicant's father further describes the applicant's activities in the United States. *Id.*

The record contains a statement from the applicant's father on Form I-290B; copies of the applicant's V-2 visa and Form I-94 Departure Record; a copy of the applicant's birth certificate; copies of the applicant's U.S. school records, and a copy of the applicant's father's naturalization certificate. 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 the age of 18 on February 27, 2001, he 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.

The applicant was admitted into the United States on December 4, 2003 in V-2 non-immigrant status as the child of a permanent resident. There is no indication that a Form I-485, Application to Register Permanent Residence or Adjust Status, has been filed on his behalf in order to adjust his status to that of lawful permanent resident. The record does not reflect that he has resided in the United States "pursuant to a lawful

admission for permanent residence.” *See* section 320(a)(3) of the Act. Accordingly, the applicant does not meet the requirement 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. Based on the foregoing, the applicant has not met his burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.