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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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FILE:

Office: WASHINGTON, DC

Date: OCT 01 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 in the Philippines on April 14, 1988. The applicant was adopted by [REDACTED] a U.S. citizen, and her spouse in Japan in 1988. The applicant was paroled into the United States in 1990. 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 she derived citizenship from her adoptive mother.

The district director concluded that the applicant failed to establish she was legally adopted or that she was a lawful permanent resident of the United States. Thus, the district director concluded that the applicant did not become a U.S. citizen by operation of law under section 320 of the Act. The application was denied accordingly.

On appeal, the applicant's mother states that the claim "was denied based on a misinterpretation of facts involved in [her] adoption." *See Statement from Applicant's Mother on Form I-290B.*

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, 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.

- (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 101(b)(1).

The applicant was paroled into the United States on December 30, 1990, on the basis of an approved humanitarian parole issued by the U.S. Consulate in Okinawa, Japan. The record includes the applicant's adoption certificate, as well as documents relating to her attempts to immigrate to the United States. The AAO notes that the applicant resides in the United States, but is not a lawful permanent resident. There is no indication that a Form I-485, Application to Register Permanent Residence or Adjust Status, has been filed on her behalf in order to adjust her status to that of lawful permanent resident. The record therefore does not reflect that, prior to attaining the age of 18, she resided in the United States "pursuant to a lawful admission

for permanent residence” as required by section 320(a)(3) of the Act, 8 U.S.C. § 1431(a)(3).¹ Accordingly, the applicant did not acquire U.S. citizenship pursuant to the CCA and her present 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 her burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.

¹ Having found that the applicant was not a lawful permanent resident and therefore ineligible under section 320(a) of the Act, 8 U.S.C. § 1431(a), the AAO need not determine whether the applicant was properly adopted such that she may qualify for benefits under section 320(b) of the Act, 8 U.S.C. § 1431(b).