



U.S. Citizenship  
and Immigration  
Services

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SEP 07 2007

FILE:

Office: ATLANTA, GA

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:

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on July 27, 1997 in Jordan. The applicant was adopted by [REDACTED] on June 9, 2004, as reflected in a Final Decree of Adoption entered by the Probate Court of Morgan County, Alabama. The applicant's adopted father, [REDACTED] is a native-born U.S. citizen born on [REDACTED] in Alabama. The applicant's adopted mother, [REDACTED], is also a native-born U.S. citizen born on [REDACTED] in Alabama. The applicant is a lawful permanent resident of the United States. The applicant seeks a certificate of U.S. citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The record reflects that a Form N-643, Application for Certificate of Citizenship on Behalf of Adopted Child was previously filed on the applicant's behalf on July 15, 2003. The previous application was denied, and an appeal was dismissed by this office on March 24, 2006 on the ground that the applicant had failed to establish that he had been adopted. The instant Form N-600, Application for Certificate of Citizenship, was filed on August 3, 2006. The instant application was denied on March 12, 2007. This appeal followed.

The district director determined, *inter alia*, that the applicant was not adopted in his native country Jordan and therefore did not meet the definition of "child" set forth in sections 101(b)(1)(E)(i) and 101(c) of the Act, 8 U.S.C. §§ 1101(b)(1)(E)(i) and 1101(c). The district director concluded that the applicant was not eligible for citizenship under section 320 of the Act, 8 U.S.C. § 1431. The application was denied accordingly.

On appeal, the applicant, through counsel, maintains that the district director erred in finding that he was not adopted.

Section 320 of the Act states in pertinent part:

(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).

Section 101(b)(1) of the Act states, in pertinent part, that the term "child" means an unmarried person under twenty-one years of age who is-

(E)(i) [A] child adopted while under the age of sixteen years if the child has been in the

legal custody of, and has resided with, the adopting parent or parents for at least two years: Provided, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

...  
(F)(i) [A] child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 1151(b) of this title, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents . . . who has been adopted abroad by a United States citizen and spouse jointly . . . or who is coming to the United States for adoption by a United States citizen and spouse jointly . . .

The regulation, at 8 C.F.R. § 320.1, defines “adopted” as

adopted pursuant to a full, final and complete adoption. If a foreign adoption of an orphan was not full and final, [or] was defective ... the child is not considered to have been full, finally and completely adopted and must be readopted in the United States.

The record in the present case contains a Final Decree of Adoption, dated June 9, 2004. The applicant was 7 years old at the time. The record also contains a “Declaration and Commitment” agreement, dated January 1, 1998, between a charitable organization and the applicant’s adopted mother and [REDACTED] (her previous husband). The applicant’s adopted mother obtained a divorce from [REDACTED] on October 4, 2000. She was granted legal custody of the applicant at that time. The applicant’s mother married [REDACTED] on June 10, 2002.

According to the U.S. Department of State website, at [www.travel.state.gov](http://www.travel.state.gov), adoption is not available in Jordan. Nevertheless, the applicant was adopted in the United States on June 9, 2004. Also, the applicant has resided with, and been in the legal custody of [REDACTED] for more than the required two years. Therefore, the applicant meets the requirements of section 320 of the Act, 8 U.S.C. § 1431.

The AAO notes that the applicant holds a U.S. Passport, which is considered conclusive proof of U.S. citizenship. See *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984).

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). The applicant in the present case has met his burden and the appeal will be sustained.

**ORDER:** The appeal is sustained.