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U.S. Citizenship
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Services

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SEP 26 2007

[REDACTED]

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:

IN RE: APPLICANT: [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to 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 for Certificate of Citizenship (Form N-600) was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, and the application will be denied.

The record reflects that the applicant was born on October 1, 1988, in Korea. The applicant was admitted into the United States as a lawful permanent resident on October 17, 1997. The applicant's mother and father were born in Korea. They married on October 3, 1985, and became naturalized U.S. citizens on January 19, 2006. 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 director found that the applicant was ineligible for a certificate of citizenship under section 320 of the Act because neither his mother, nor his father was a U.S. citizen when his Form N-600 application was filed on February 16, 2005.

On appeal, the applicant concedes that his parents were not U.S. citizens at the time his Form N-600 was filed on February 16, 2005. The applicant indicates, however, that he sent a new Form N-600 application to the director around May 2006, after his parent's became naturalized U.S. citizens, and prior to his eighteenth birthday, and he indicates that he qualified for a certificate of citizenship under section 320 of the Act at that time.

The AAO notes that in order to properly file a Form N-600 pursuant to section 320 of the Act, the application must be filed with the required filing fee. *See* 8 C.F.R. § 320.3(a). The record reflects that the applicant did not pay the required filing fee for the Form N-600 application that he sent to the director around May 2005. As the application was not properly filed, it could not be considered or adjudicated as a separate Form N-600 application.

Section 320 of the Act permits a child born outside of the U.S. to automatically become a citizen of the United States upon fulfillment of the following conditions:

- (a) (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 regulation provides in pertinent part at 8 C.F.R. § 320.3 that:

- (a) [A]n application for a certificate of citizenship under this section on behalf of a minor biological child shall be submitted on Form N-600, Application for Certificate of Citizenship, by the U.S. citizen parent(s).

....

- (b)(1) [A]n applicant must submit the following required documents unless such

documents are already contained in the Service administrative file(s):

...

(iv) **Evidence of U.S. citizenship of parent**, (i.e., birth certificate; naturalization certificate; FS-240, Report of Birth Abroad; a valid unexpired U.S. passport; or certificate of citizenship).

The record reflects that the applicant's Form N-600 was filed on February 16, 2005. Neither the applicant's father, nor mother was a U.S. citizen at the time the applicant's Form N-600 application was filed. The director therefore correctly determined that the applicant was ineligible for citizenship under section 320 of the Act.

The regulation provides at 8 C.F.R. § 341.2(c), that the burden of proof shall be on the claimant to establish his or her claimed citizenship by a preponderance of the evidence. The applicant has not met his burden of proof in the present matter. The appeal will therefore be dismissed and the application will be denied.

ORDER: The appeal is dismissed. The application is denied.¹

¹ The present decision is without prejudice to the applicant's filing, if eligible, a Form N-400, Application for Naturalization pursuant to section 316 of the Act, 8 U.S.C. § 1427.