

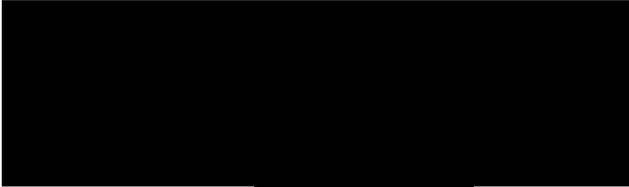


U.S. Citizenship  
and Immigration  
Services

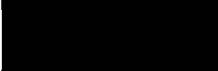
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FILE:



Office: NEW YORK, NY

Date:

APR 07 2008

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 Form N-600, Application for Certificate of Citizenship (N-600 application) was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the N-600 application will be approved.

The applicant was born in the Dominican Republic on January 13, 1991. He will turn eighteen on January 13, 2009. The applicant's mother [REDACTED], was born in the Dominican Republic and she became a naturalized U.S. citizen on March 3, 2006, when the applicant was fifteen years old. The applicant's father is not a U.S. citizen. The record reflects that the applicant's parents divorced on July 10, 1992, when the applicant was one years old. The applicant was admitted into the United States as a lawful permanent resident on October 2, 1996, when he was five years old. He presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that he derived citizenship through his mother.

The district director found the applicant had failed to provide evidence establishing that he resided in the legal and physical custody of his U.S. citizen mother, as required by section 320(a)(3) of the Act. The N-600 application was denied accordingly.

Through his mother, the applicant asserts on appeal that his mother was awarded legal and physical custody over him at the time of his parents' divorce. The applicant submits a copy of his parents' divorce decree and he asserts that a copy of the divorce decree was presented to U.S. Citizenship and Immigration Services in February 2007.

Section 320 of the Act allows a child born outside of the United States 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 record contains the following evidence relating to the applicant's citizenship claim under section 320 of the Act:

A birth certificate reflecting that the applicant was born in the Dominican Republic on January 13, 1991, to [REDACTED] (mother) and [REDACTED] (father).

A divorce decree from the First Instance Chamber, Judicial District of San Cristobal, Dominican Republic, reflecting that the applicant's parents were divorced on July 10, 1992, and that custody over the applicant was awarded to his mother.

March 1996 immigrant visa documentation, reflecting that the applicant's step-father, [REDACTED] applied for an immigrant visa on the applicant's behalf, and reflecting that the applicant intended to live with his mother and step-father in New York upon his admission to the United States as a lawful permanent resident.

U.S. immigrant visa and lawful permanent resident documentation reflecting that the applicant was admitted into the United States as a lawful permanent resident on October 2, 1996, and indicating that his residence was with his mother in New York.

A Certificate of Naturalization reflecting that the applicant's mother became a naturalized U.S. citizen on March 3, 2006.

The applicant's N-600 application reflecting that he and his mother reside at the same address in New York.

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. Under the preponderance of evidence standard, it is generally sufficient that the proof establish that something is probably true. *Matter of E-M*, 20 I&N Dec. 77 (Comm. 1989.)

The AAO finds that the applicant has established by a preponderance of the evidence that, prior to his eighteenth birthday, he satisfied all of the section 320 of the Act requirements for automatic vesting of his U.S. citizenship.

The applicant's mother's certificate of naturalization establishes that she became a naturalized U.S. citizen prior to the applicant's eighteenth birthday, and the birth certificate evidence contained in the record establishes that the applicant is presently under the age of eighteen. The immigrant visa and lawful permanent residence documentation contained in the record additionally establish that the applicant became a lawful permanent resident prior to his eighteenth birthday. Moreover, the AAO finds that the immigrant visa documentation and divorce decree evidence, as well as the information contained in the applicant's N-600 application establish, by a preponderance of the evidence, that the applicant resided in the physical and legal custody of his mother at the time of his immigration into the United States on October 2, 1996, and on March 3, 2006, when his mother became a naturalized U.S. citizen.

The applicant has thus established that he met all of the requirements for automatic vesting of his citizenship under section 320 of the Act. Accordingly, the applicant has met his burden of proof in the present matter. The appeal will therefore be sustained, and the N-600 application will be approved.

**ORDER:** The appeal is sustained. The application is approved.