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U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: SAN FRANCISCO, CA Date: **AUG 05 2008**

IN RE: Applicant: [REDACTED]

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 black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, San Francisco, California, 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 November 14, 1991 in China. The applicant's parents are [REDACTED]. The applicant's parents were married in 1990 in China. The applicant was admitted as a lawful permanent resident of the United States on January 31, 2001, when he was 9 years old. The applicant presently seeks a certificate of citizenship claiming that he acquired U.S. citizenship from his parents pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The field office director denied the citizenship claim upon finding that the applicant's parents were not U.S. citizens. The application was denied accordingly. This appeal followed.

Section 320 of the Act, 8 U.S.C. § 1431, was amended by the Child Citizenship Act of 2000 (the CCA). The amendments took effect on February 27, 2001 and apply only to persons who were not yet 18 years old as of February 27, 2001. Because the applicant was under the age of 18 on February 27, 2001, he is eligible for the benefits of section 320 of the amended Act. See *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001).

Section 320 of the Act, 8 U.S.C § 1431, 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 in this case has established that he was admitted as a lawful permanent resident of the United States prior to his 18<sup>th</sup> birthday. He has also established that he resides in the legal and physical custody of his parents. The applicant maintains that his parents have applied for naturalization. USCIS records reflect that the applicant's mother became a U.S. citizen upon her naturalization on May 14, 2008. The applicant was still under 18 years of age when his mother naturalized. Therefore, the AAO finds that the applicant acquired U.S. citizenship upon his mother's naturalization.

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 AAO concludes that the applicant has met his burden to establish, by a preponderance of the evidence, that he acquired U.S. citizenship upon his mother's naturalization. The appeal will therefore be sustained.

**ORDER:** The appeal is sustained.