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U.S. Citizenship  
and Immigration  
Services

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*Ez*



FILE: [REDACTED] Office: NEW YORK, NY Date: JUN 13 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 District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on October 26, 1989 in Sweden. The applicant's parents are [REDACTED] and [REDACTED]. The applicant's mother was born in Sweden, but acquired U.S. citizenship at birth through her father. The applicant was admitted to the United States as a lawful permanent resident on September 6, 2004, when she was 14 years old. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Naturalization Act (the Act), 8 U.S.C. § 1431, claiming that she acquired U.S. citizenship from her mother.

The district director questioned whether the applicant's mother had properly derived U.S. citizenship. The director denied the application upon finding that the applicant had not established eligibility under section 309 or 320 of the Act. The application was denied accordingly.

On appeal, the applicant's mother provides additional documentation relating to her father, herself and the applicant. She maintains that the applicant is eligible for citizenship.

Section 320 of the Act, 8 U.S.C. § 1431, 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, 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 AAO finds that the applicant has established, by a preponderance of the evidence, that she acquired U.S. citizenship upon her admission to the United States as a lawful permanent resident. The AAO notes that the applicant's mother's U.S. passport is in the record. In accordance with *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984), a valid U.S. passport constitutes conclusive proof of a person's U.S. citizenship and may not be collaterally attacked. Thus, the applicant has established that prior to her 18<sup>th</sup> birthday, she was residing in the United States pursuant to a lawful admission for permanent residency, and in the legal and physical custody of a U.S. citizen parent.

Pursuant to 8 C.F.R. § 341.2(c), 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 has met her burden and the appeal will be sustained.

**ORDER:** The appeal is sustained.