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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

EL

FILE:

Office: NEW YORK, NY

Date:

MAY 15 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.

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 dismissed.

that the applicant was born on December 6, 1990 in Yemen. The applicant's parents are and The applicant's father became a U.S. citizen upon his naturalization on February 28, 1989, before the applicant's birth. The applicant's parents were married in Yemen on December 25, 1984. The applicant was admitted to the United States as a lawful permanent resident on November 14, 2006, when she was 15 years old, and has been residing with her 23-year-old brother. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, claiming that she acquired U.S. citizenship through her father.¹

The district director denied the applicant's citizenship claim finding that she was not residing in the physical custody of a U.S. citizen parent. The district director based his finding on the applicant's father's admission under oath that he had been living in Yemen until April 29, 2007, and that the applicant had been living with her brother in the United States. The district director further found that the applicant did not derive citizenship under section 301 of the Act, 8 U.S.C. § 1401, based on her failure to establish that her father had the required physical presence prior to her birth.² The application was denied accordingly.

On appeal, the applicant's father states that he is appealing the district director's decision. The appeal is not accompanied by any evidence relating to the applicant's residence or her father's residence.

8 C.F.R. § 103.3(a)(1) states in pertinent part that:

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

¹ 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.

² Section 301(g) of the Act, 8 U.S.C. § 1401(g), requires, in relevant part, that the U.S. citizen parent have five years of physical presence in the United States prior to the applicant's birth, two of which while over the age of 14. The record does not contain any evidence relating to the applicant's father's physical presence in the United States.

The AAO finds that the applicant's appeal fails to identify any erroneous conclusion of law or statement of fact in the district director's decision. The appeal is therefore summarily dismissed.

ORDER: The appeal is summarily dismissed.