

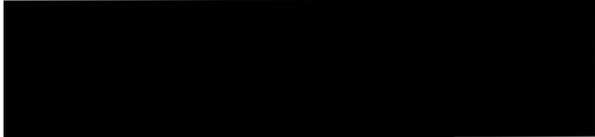
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U.S. Citizenship  
and Immigration  
Services

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EA



FILE:



Office: LOS ANGELES, CA

Date:

NOV 26 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on [REDACTED] in Ghana. The applicant's mother, [REDACTED] became a U.S. citizen upon her naturalization on March 20, 2008, when the applicant was 17 years old. The applicant's father, [REDACTED] is not a U.S. citizen. The applicant obtained her lawful permanent residence on March 20, 1998, when she was seven years old. The applicant's parents were divorced in Ghana on December 13, 2002. The applicant 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 she acquired U.S. citizenship upon her mother's naturalization.

The field office director concluded that the applicant did not automatically acquire U.S. citizenship because she was not in her U.S. citizen parent's legal custody. The application was denied accordingly.

On appeal, the applicant, through her mother, claims that she is in her mother's legal custody. In support of the appeal, the applicant submits *inter alia* copies of court records relating to child support, medical records, tax records and correspondence.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on [REDACTED]. The CCA benefits all persons who had not yet reached their 18th birthdays as of February [REDACTED]. Because the applicant was under 18 years old on [REDACTED], 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 record reflects that the applicant's parents were divorced in Ghana in 2002. The record includes a Certificate of Divorce which unequivocally states that custody of the applicant was awarded to her father. The AAO notes the evidence in the record suggesting that the applicant is in her mother's physical custody, including the child support documents, the correspondence, and the medical and school records. Nevertheless, the record does not contain any court order modifying the custody award entered in 2002.<sup>1</sup> Therefore, the AAO cannot find that the applicant's mother has legal custody of the applicant. As such, she has not automatically acquired U.S. citizenship pursuant to section 320 of the Act, 8 U.S.C. § 1431.

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<sup>1</sup> The AAO notes that the applicant will reach the age of 18 on [REDACTED]. She may automatically acquire U.S. citizenship should her mother be awarded legal custody of her before her 18<sup>th</sup> birthday.

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. The applicant in the present case has not met her burden and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.