U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

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U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: LOS ANGELES, CA Date: JUN 09 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the former 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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant was born The record reflects that the applicant's mother was born in the Philippines, and that she obtained derivative U.S. citizenship through her own mother. The record reflects that the applicant's father was born in the Philippines and that he became a naturalized U.S. citizen when the applicant was seventeen years old. The applicant's parents married in the Philippines and divorced in the U.S. when the applicant was nineteen years old. The applicant was admitted into the United States as a lawful permanent resident when he was eleven years old. He seeks a certificate of citizenship pursuant to section 320 of the former Immigration and Nationality Act (former Act), 8 U.S.C. § 1431.

The district director concluded the applicant had provided insufficient evidence to establish his claim of U.S. citizenship. The application was denied accordingly.

On appeal, the applicant asserts that previously unavailable evidence establishes that his mother was a U.S. citizen at the time of his birth. In support of his appeal, the applicant submits letters from the U.S. Embassy in the Philippines stating that the applicant's mother and her siblings are U.S. citizens pursuant to the citizenship status of their mother, The applicant additionally submits a copy of his mother's U.S. passport issued in 1982 and renewed in 2001.

The Child Citizenship Act of 2000 (CCA) amended section 320 of the former Act as of The amended section 320 of the Act allows a child born outside of the U.S. to automatically become a citizen of the United States upon fulfillment of the following conditions:

> (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 provisions of the CCA are not retroactive and the amended provisions of section 320 apply only to persons who were not yet Because the applicant was over the age of he is not eligible for the benefits of section 320 of the amended Act. *See Matter of* Dec. 153 (BIA 2001).

The AAO finds, however, that the applicant does meet the requirements for automatic citizenship under section 320 of the Act, as it existed prior to the amendments of the CCA.

Section 320 of the former Act stated in pertinent part that:

> (a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such parent is naturalized, become a citizen of the United States, when

> (1) such naturalization takes place while such child is under the age of 18 years; and
>
> (2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of 18 years.

The record reflects that the applicant's mother obtained derivative U.S. citizenship through her own mother. She was therefore a U.S. citizen at the time of the applicant's birth. The record reflects further that the applicant's father was an alien at the time of the applicant's birth, and that he became a naturalized U.S. citizen in prior to the applicant's eighteenth birthday. Moreover, the record reflects that the applicant entered the U.S. pursuant to a lawful admission for permanent while he was under the age of eighteen. The applicant has therefore established that he met the requirements for automatic citizenship set forth in section 320(a) of the former Act.

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 has met his burden in the present case and the appeal will be sustained.

ORDER: The appeal is sustained.