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U.S. Citizenship
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Services

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[redacted]

MAR 23 2004

FILE: [redacted] Office: PHILADELPHIA, PA Date:

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant's father, was born in Chittagong, Bangladesh on February 12, 1953. He became a naturalized United States (U.S.) citizen on September 30, 1994. The applicant's mother was born in Chittagong, Bangladesh and is not a U.S. citizen. The record reflects that the applicant's parents married in Bangladesh on January 7, 1973. The applicant was admitted into the United States as a lawful permanent resident on January 31, 1995. Evidence in the record indicates that the applicant was born in Chittagong, Bangladesh on June 26, 1988. The AAO notes that the record contains two extracts of birth registration (Extract of birth) for the applicant. The original extract of birth submitted for the applicant's immigrant visa petition and dated August 20, 1990, states that the applicant was born on May 20, 1980, and that the birth was registered on August 19, 1990. The second extract of birth, issued July 1, 1998, states that the applicant was born on June 26, 1988, and that the birth was registered on May 1, 1998. The record reflects that a Form I-90, Application to Replace Alien Registration Card, filed on December 28, 1998, requests that the applicant's birth date be changed due to an INS error regarding the applicant's birth date information. The application was approved, without comment, on December 30, 1999.[1] The applicant seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant was ineligible for acquisition of U.S. citizenship pursuant to section 320 of the Act, because she did not reside in the United States in the physical custody of her father.

On appeal, the applicant's father (Mr. asserts that he works during the week in New York City, and lives with the applicant in Pennsylvania on weekends and during holidays. In support of this assertion, the applicant submits 1998 and 2002 bank statements containing Mr. name and Lansdowne, Pennsylvania address.

Section 320(a) of the Act states 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 notes that in the present case, the record contains two extracts of birth for the applicant. According to the initial extract of birth, submitted in support of the applicant's immigrant petition, the applicant was born on May 20, 1980. The AAO notes that the birth year contained on the original extract of birth appears to have been unofficially altered to reflect the year 1980. The AAO notes further that information contained in

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[1] The AAO additionally notes that the birth dates of two of the applicant's siblings were similarly changed: pursuant to a form I-90 filed on December 28, 1998, and approved on April 3, 2000; pursuant to a form I-90 filed on December 28, 1998, and approved on December 30, 1999.

Mr. Form N-600, Application for Naturalization states that the applicant was born on May 20, 1981. According to a second extract of birth, prepared in May of 1998 and issued on July 1, 1998, the applicant was born on June 26, 1988. The record contains no information clarifying the different birth dates or explaining the reason for the change made in 1998, and the record contains no other evidence to establish the actual birth date of the applicant.

The AAO notes that pursuant to the birth date contained in the initial extract of birth, the applicant turned 18 years old on May 20, 1998. However, pursuant to the second extract of birth, the applicant would not turn eighteen until June 26, 2006. The AAO finds that due to the conflicting birth date information contained in the extracts of birth, and the lack of other corroborating evidence regarding the applicant's age, the applicant has failed to establish that she is under the age of 18, as required under section 320 of the Act.

The AAO additionally finds that, even if it were established that the applicant was under the age of 18, the evidence in the record also fails to establish that the applicant resides in the physical custody of her father, as required by section 320 of the Act. The AAO notes that the Form N-600, Application for Certificate of Citizenship (Form, N-600) filed by the applicant states that the applicant resides at: and that the applicant's father resides at The AAO additionally notes that the record contains a copy of Mr. 2001 federal tax return stating that his home address is: . The record also contains several copies of Mr. 2002 utility bills reflecting that he resides at The AAO notes that the 2002 bank statements submitted by the applicant indicate that Mr. has an account at a Pennsylvania based bank. In addition, the 1998 mortgage interest statement submitted by the applicant reflects that Mr. and another individual named have a loan for the home in Lansdowne, Pennsylvania, where the applicant allegedly lives.[2] However, the AAO finds that neither the bank statements nor the existence of a loan for the home in Lansdowne, Pennsylvania establishes that Mr. actually resides with the applicant in Lansdowne, Pennsylvania. The AAO finds further that the information contained on the Form N-600 application, as well as the residence information contained in the federal tax documentation and utility bill evidence submitted by the applicant, clearly reflect that Mr resides in New York.

Based on the above evidence, the applicant has failed to establish that she is under the age of 18 or that she resides in the physical custody of her father. The applicant has therefore failed to establish that she qualifies for citizenship under section 320 of the Act. The appeal will be dismissed accordingly.

ORDER: The appeal is dismissed.

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[2] The AAO notes that the record contains no actual evidence to demonstrate that even the applicant resides at 40 Nyack Ave., Lansdowne, Pennsylvania.