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

U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: NEWARK, NJ Date: MAY 24 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship pursuant to Section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:

[redacted]

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, Newark, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be dismissed.

The applicant was born in Seoul, South Korea on October 8, 1986. The record indicates that the applicant's father was born in Korea on June 28, 1953, and that the applicant's mother was born in Korea on May 27, 1953. The applicant's parents married in Korea in March 1980, and the applicant entered the United States pursuant to a lawful admission for permanent residence on March 22, 1996. The applicant is seeking a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director noted that the certificate of naturalization submitted by the applicant in order to establish that her father was a U.S. citizen, contained a different name than the father's name contained in her family registry documentation. Accordingly, the district director requested on two occasions that the applicant submit proof of a legal name change for her father. The district director noted that although the applicant resubmitted a copy of the same certificate of naturalization for her father, the applicant failed to submit the requested proof of a legal name change for her father. The district director subsequently denied the application for lack of prosecution on August 21, 2003.

On appeal, counsel asserts that applicable law permits a name change during naturalization proceedings, and that the applicant submitted legally sufficient evidence to establish a name change by her father. Counsel asserts further that the applicant satisfies the requirements for a certificate of citizenship under section 320 of the Act, and that a certificate should be issued accordingly.[1]

8 C.F.R. § 338.2 states, in pertinent part:

> Whenever the name of an applicant has been changed by order of a court as a part of a naturalization, the clerk of court, or his or her authorized deputy, shall forward a copy of the order changing the applicant's name with the notifications required by part 339 of this chapter. The Certificate of Naturalization will be issued to the applicant in the name as changed.

Pursuant to 8 C.F.R. § 339.1:

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[1] Section 320 of the Act 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 birthday as of February 27, 2001. The applicant was sixteen years old on February 27, 2001. She is therefore eligible for the benefits of the CCA.

Section 320 of the Act 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.

> [T]he clerk of court shall provide to each person whose name was changed as part of the naturalization proceedings, pursuant to section 336(e) of the Act, certified evidence of such name change.

In the present matter the record contains a copy of a certificate of naturalization issued to Although the applicant claims that her father is and that he legally changed his name during naturalization proceedings in 1996, the record contains no evidence to establish that the applicant's father obtained a court ordered name change as part of his naturalization.

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. Because the applicant failed to establish that her father, legally changed his name to and became a naturalized U.S. citizen on July 16, 1996, the appeal will be dismissed.

ORDER: The appeal is dismissed.