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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEW YORK, NEW YORK Date: JUL 07 2005

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under § 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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born in the Dominican Republic on March 26, 1986. The applicant's father was born in the Dominican Republic and became a naturalized U.S. citizen on August 23, 2003, when the applicant was seventeen years old. The applicant's mother was born in the Dominican Republic and is not a U.S. citizen. The record reflects that the applicant's parents were never married, but the applicant was legitimated in 1995 pursuant to Dominican law. The applicant was admitted into the United States as a lawful permanent resident on April 12, 2003, when he was seventeen years old. He seeks a certificate of citizenship under § 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant had failed to establish he resided in the U.S. in the physical custody of his U.S. citizen parent, as required by § 320 of the Act. The application was denied accordingly. On appeal, the applicant, through his father, asserts that he has been residing with his father in New Jersey, but that in September 2004, he began to attend college in New York City, where he spends only the school week with his aunt. The applicant states that he returns on the weekends to his father's home in New Jersey. The applicant, who is nineteen years old, adds that when he was under the age of eighteen, he resided with his father. On appeal, the applicant submits copies of his New Jersey provisional auto license, issued June 24, 2004, his City College of New York identification card, a tuition receipt, and his U.S. passport, which was issued on June 10, 2004.

The record contains a copy of the identity page of a U.S. passport issued to the applicant on June 10, 2004. The AAO finds that the applicant's passport establishes his U.S. citizenship. In *Matter of Villanueva*, 19 I&N, Dec. 101 (BIA 1984), the Board of Immigration Appeals held that, unless void on its face, a valid U.S. passport issued to an individual as a citizen of the United States is not subject to collateral attack in administrative immigration proceedings, but constitutes conclusive proof of such person's U.S. citizenship. The AAO therefore concludes that the applicant is eligible for a certificate of U.S. citizenship.

8 C.F.R. 341.2(c) states 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. The appeal will therefore be sustained.

ORDER: The appeal is sustained.