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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

[Redacted]

E₂

Date: **AUG 02 2011**

Office: LOS ANGELES, CA

FILE: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 322 of the Immigration and Nationality Act; 8 U.S.C. § 1433

ON BEHALF OF APPLICANT:

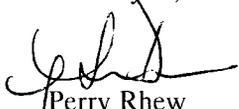
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

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

The record reflects that the applicant was born on September 1, 1998 in Canada. The applicant's parents, as indicated on his birth certificate, are [REDACTED]

[REDACTED] The applicant's mother was born in Canada on March 20, 1962, but acquired U.S. citizenship at birth through her father. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship through his mother.

The director denied the applicant's Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322, upon finding that the applicant and his U.S. citizen parent reside in the United States and the applicant is therefore ineligible for a certificate of citizenship under section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433. The director also found that the applicant did not acquire U.S. citizenship at birth either under section 320 of the Act, 8 U.S.C. § 1433, because he is not a lawful permanent resident, or under section 301(g) of the Act, 8 U.S.C. §1401(g), because he could not demonstrate that his mother was physically present in the United States for the statutorily required period of time.

On appeal, the applicant, through counsel, concedes that he is not eligible for U.S. citizenship under section 322 of the Act, but maintains that he acquired U.S. citizenship at birth through his mother. *See Applicant's Brief.* The applicant's appeal is accompanied by evidence of the applicant's mother's presence in the United States, namely her kindergarten and first grade school records. The applicant claims that he is eligible for a certificate of citizenship under section 301(g) of the Act.¹

The AAO reviews these proceedings *de novo*. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). As noted above, the director found the applicant ineligible for a certificate of citizenship under section 322 of the Act. The applicant does not dispute this finding. The appeal of the denial of the applicant's Form N-600K must therefore be dismissed.

The applicant must meet his burden of proof by establishing eligibility for the claimed citizenship by a preponderance of the evidence. 8 C.F.R. § 320.3. Here, the applicant applied

¹ In order to acquire U.S. citizenship at birth under section 301(g) of the Act, the applicant must establish that his mother was physically present in the United States for five years prior to his birth in 1998, two of which were after she attained the age of 14 (after 1976). The evidence submitted by the applicant, consisting of both documentary evidence and sworn statements, establishes that his mother was physically present in the United States from 1963 until 1969, and from 1991 to 1993. Therefore, the applicant has demonstrated that he acquired U.S. citizenship at birth under section 301(g) of the Act and would need to file a Form N-600, Application for Certificate of Citizenship, to obtain a certificate evidencing his status as a U.S. citizen.

for a certificate of citizenship under section 322 of the Act. He is statutorily ineligible for U.S. citizenship under section 322 of the Act and therefore cannot meet his burden to prove eligibility for the benefit sought. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.