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FILE: [Redacted] Office: HONOLULU, HI (HAGATNA, GU) Date: **AUG 29 2006**

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:

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, Chief
Administrative Appeals Office

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

The applicant, [REDACTED] is the adoptive parent of a daughter, [REDACTED] who was born on July 20, 1987 in The Philippines. Ms. [REDACTED], who was also born in The Philippines is a naturalized U.S. citizen and resides with her child in the Commonwealth of the Northern Mariana Islands. She has filed for a certificate of citizenship for her daughter pursuant to section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

Section 322 of the Act applies to children born and residing outside of the United States and states, in pertinent part, that:

(a) A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General [now Secretary, Homeland Security "Secretary"] shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General [Secretary], that the following conditions have been fulfilled:

- (1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.
- (2) The United States citizen parent--
 - (A) has . . . been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or
 - (B) has . . . a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.
- (3) The child is under the age of eighteen years.
- (4) The child is residing outside of the United States in the legal and physical custody of the applicant.
- (5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Upon approval of the application (which may be filed from abroad) and . . . upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General [Secretary] with a certificate of citizenship.

(c) Subsections (a) and (b) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).



The district director denied the application based on his determination that the applicant had failed to satisfy the requirement at subsection (a)(2)(A) above – that she had been physically present in the United States or its outlying possessions for at least five years, two of which were subsequent to her attainment of the age of 14. He found the Northern Mariana Islands, the applicant’s place of residence, to be neither the United States or an outlying possession, as defined by the Act in section 101(a)(38) and (29) respectively. The application was denied accordingly.

While the AAO notes counsel’s response to the director’s denial on appeal, it finds that it would serve no purpose to address the issues he raises. The applicant’s adopted daughter turned 18 years of age on July 20, 2005. Accordingly, whether or not the applicant has satisfied the residency requirements of section 322 of the Act, her adopted daughter is statutorily ineligible for a certificate of citizenship pursuant to subsection (a)(3). CIS regulations require that a certificate of citizenship application be filed, adjudicated, and approved with the oath of allegiance administered before the child’s 18th birthday. *See* Form N-600/643 Supplement A (Rev. 05/04/00). *See also* 8 C.F.R. § 322.2(a)(3) (2002). As the applicant is statutorily ineligible for a certificate of citizenship pursuant to section 322 of the Act, the appeal will be dismissed.

ORDER: The appeal is dismissed.