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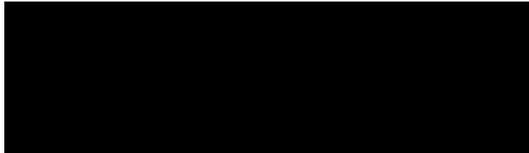
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEW YORK, NEW YORK

Date: JUL 06 2005

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 Jamaica on December 1, 1985. The applicant's father was born in Jamaica and became a naturalized U.S. citizen on June 7, 2002, when the applicant was sixteen years old. The applicant's mother was born in Jamaica and is not a U.S. citizen. It appears that the applicant's parents were never married, but the applicant was legitimated in 1994 pursuant to Jamaican law. The applicant was admitted into the United States as a lawful permanent resident on July 27, 2000, when he was fourteen 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 York, and he was abroad only to attend school. The record reflects that prior to his eighteenth birthday, while he was studying abroad, the applicant returned to his father's home in the United States for summer vacations.

The AAO notes that the record contains a copy of the applicant's U.S. passport, which was issued on October 31, 2002. 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.