U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

E2

PUBLIC COPY

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: DEC 2 6 2006

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship under Section 321 of the former Immigration and Nationality Act; Pub. L. 82-414, 66 Stat. 245 (June 27, 1952).

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.

Ellen C. Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The record reflects that the applicant was born in Liberia on May 29, 1982. The record does not show that the applicant's mother, [redacted] is a U.S. citizen. The applicant's father, [redacted] was born in Ghana on August 16, 1951, and he became a naturalized U.S. citizen on May 2, 1997, when the applicant was 14 years old. The record reflects that the applicant's parents were married on January 1, 1979. The applicant was admitted into the United States as a lawful permanent resident on December 11, 1997, when she was 15 years old. She presently seeks a certificate of citizenship under section 321 of the former Immigration and Nationality Act (the former Act), Pub. L. 82-414, 66 Stat. 245 (June 27, 1952).

The director concluded that the applicant failed to establish that she became a U.S. citizen by operation of law due to the fact that both of her parents have not become U.S. citizens, as required by section 321 of the former Act. *Decision of the Director*, dated March 15, 2006. The application was denied accordingly.

On appeal, counsel for the applicant asserts that the director applied an erroneous legal standard. *Statement from Counsel on Form I-290B*, dated April 14, 2006. Specifically, counsel contends that under the authority of section 320 of the Act, the applicant does not have to show that both of her parents became U.S. citizens prior to her eighteenth birthday, contrary to the findings of the director pursuant to section 321 of the former Act. *Id.* Counsel therefore asserts that the applicant has shown that she is eligible for a certificate of citizenship based on the naturalization of her father.

Section 321 of the former Act provides the following:

> Children born outside United States of alien parents; conditions for automatic citizenship
>
> (a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:
>
> (1) The naturalization of both parents; or
>
> (2) The naturalization of the surviving parent if one of the parents is deceased;
>
> (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out-of-wedlock and the paternity of the child has not been established by legitimation; and if
>
> (4) Such naturalization takes place while such child is unmarried and under the age of eighteen years; and
>
> (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3)

> of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

Upon review, as noted by the director, the applicant has not shown that she meets section 321(a)(1) of the former Act, as she has not established that her mother has become a U.S. citizen. The applicant has not asserted that her mother is deceased, thus she has not shown that she meets section 321(a)(2) of the former Act. The record reflects that the applicant's parents were married on January 1, 1979, and they have not been legally separated. Thus, the applicant's parents have not had a legal separation as contemplated by section 321(a)(3) of the former Act. Nor was the applicant born out-of-wedlock as contemplated by section 321(a)(3) of the former Act. Accordingly, the applicant has not established that she became a U.S. citizen by operation of law under section 321(a) of the former Act.

Counsel asserts that the applicant qualifies for a certificate of citizenship under the present section 320 of the Act. Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA superceded section 321(a) of the former Act, and eliminated the provision addressing the requirement that both parents become U.S. citizens in order for an individual to become a U.S. citizen by operation of law. However, the CCA benefits persons who had not yet reached their eighteenth birthdays as of February 27, 2001. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Because the applicant was 18 years old on February 27, 2001, she does not meet the age requirement for benefits under the CCA.

Based on the foregoing, the applicant has not shown that she is eligible for a certificate of citizenship pursuant to the present Form N-600 application.

The regulation at 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 not met her burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.