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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: Office: DENVER, COLORADO Date: JUN 28 2006

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Denver, Colorado, 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 Pakistan on September 27, 1985. The applicant's father, who was born in Afghanistan, became a naturalized U.S. citizen in 2002, and the applicant's mother, also from Afghanistan, became a naturalized U.S. citizen in 2004. The applicant entered the United States in 1995 as an asylee. The record reflects that she adjusted her status to that of lawful permanent resident (LPR) on September 12, 2005, and the adjustment date was backdated to September 12, 2004, when she was eighteen years old. She seeks a certificate of citizenship based on § 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director denied the application on March 28, 2005, because the applicant was over the age of eighteen, and she had not yet adjusted her status to that of LPR. On appeal, the applicant, through her father, explains the series of steps and delays that the family undertook in order to adjust their status from that of asylees to LPRs, and then to naturalize. The AAO has reviewed the record and finds that the applicant is ineligible for a certificate of citizenship pursuant to § 320 of the act.

Section 320 of the Act states in pertinent part that:

- (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
 - (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
 - (2) The child is under the age of eighteen years.
 - (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

The applicant is no longer under the age of eighteen years; hence, she does not meet the requirement described at § 320(a)(2) of the Act. The AAO notes that the requirements for citizenship as set forth in the Act, are statutorily mandated by Congress, and that U.S. Citizenship and Immigration Services (CIS) lacks authority to issue a certificate of citizenship when an applicant fails to meet the relevant statutory provisions set forth in the Act. *See generally, Iddir v. INS*, 301 F.3d 492 (7th Cir. 2002). Although the applicant is currently not eligible for a certificate of citizenship, she will be eligible to apply for naturalization in her own right five years after the date she adjusted status.

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 and the appeal will be dismissed.

ORDER: The appeal is dismissed.