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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 09 2007
WAC 06 055 52359

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and
Nationality Act; 8 U.S.C. § 1431.

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 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 on September 8, 1985 in India. He was legally adopted by his parents in 2000, when he was 14 years of age. The applicant's adoptive father, [REDACTED] became a U.S. citizen on June 27, 1996; his adoptive mother, [REDACTED] on March 9, 2001. The applicant initially arrived in the United States on November 4, 2002 as a nonimmigrant, adjusting to lawful permanent resident status on June 16, 2005, when he was 19 years old. He seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director denied the Form N-600, Application for Certificate of Citizenship, on July 10, 2006 after determining that the applicant had reached his 18th birthday prior to becoming a lawful permanent resident. *Director's Decision*, dated July 10, 2006.

The AAO notes that the record contains the applicant's appeal of the denial of a Form N-600 filed on December 12, 2005. As this earlier appeal was not forwarded for AAO consideration, the AAO's decision in the present case covers this earlier appeal as well as that submitted on August 2, 2006.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant was 15 years old on February 27, 2001, he meets the age requirement for consideration under the CCA.

Section 320 of the Act states in pertinent part:

(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.

(b) Subsection (a) 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 approved Form I-130, Petition for Alien Relative, in the record establishes the applicant as a child for the purposes of acquiring citizenship under section 320 of the Act. Accordingly, for the applicant to derive U.S. citizenship under the provisions of section 320, he must establish that prior to turning 18 years of age at least one of his parents naturalized, that he was living in the custody of the naturalized parent in the United States, and that he had become a lawful permanent resident. While the AAO finds the record to establish that the applicant's father became a U.S. citizen when he was 10 years old and that the applicant lived with his father after arriving in the United States in 2002, it also indicates that the applicant did not become a lawful permanent resident until 2005, when he was 19 years old. Accordingly, the applicant is not eligible to acquire

citizenship under section 320 of the Act.

The AAO notes that the applicant is also ineligible to derive citizenship from his father under former section 321 of the Act, which was repealed by the CCA, or the provisions of section 322 of the Act, prior to their amendment by the CCA. Like section 320 of the Act, the language of both sections includes a requirement that applicants adjust to lawful permanent resident status prior to their 18th birthdays in order to derive citizenship through a parent.

The regulation at 8 C.F.R. § 341.2(c) places the burden of proof on the applicant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met his burden. The appeal will be dismissed.

ORDER: The appeal will be dismissed.