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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 27 2007

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:

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.

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 October 6, 1987 in Pidliptsy, Ukraine. The applicant's parents, as indicated in her birth certificate, are [REDACTED] and [REDACTED]. In 1997, her mother married [REDACTED] a U.S. citizen. The applicant was admitted to the United States as a lawful permanent resident on May 26, 2000, based upon a petition filed on her behalf by her mother's husband. The applicant's mother recently became a naturalized U.S. citizen, after the applicant's 18<sup>th</sup> birthday. The applicant presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432, claiming that she acquired U.S. citizenship through her step-father.

The director denied the applicant's citizenship claim upon finding that the statute did not permit acquisition of U.S. citizenship through a step parent. The application was denied accordingly.

On appeal, the applicant indicates that it is "her personal will to become a citizen of the United States of America." *See* Statement of the Applicant on Form I-290B, Notice of Appeal. The applicant does not submit any additional evidence or argument. The AAO will consider this appeal on the basis of the evidence currently in the record.

The definition of "child" applicable to the citizenship and nationality provisions in Title III of the Act is contained in section 101(c) of the Act, 8 U.S.C. § 1101(c), and provides as follows:

...an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and except as otherwise provided in section 320 and 321 of the title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 years . . . and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

In contrast to Section 101(b) of the Act, 8 U.S.C. § 1101(b), the definition of "child" for Title III purposes does not include a "step-child."

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 had not yet reached their 18th birthdays as of February 27, 2001. Because the applicant was 15 years old on February 27, 2001, he meets the age requirement for benefits under the CCA.

Section 320 of the Act, 8 U.S.C. § 1431, 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.
- (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 1101(b)(1) of this title.

The applicant reached the age of 18 on October 6, 2005. The applicant was admitted to the United States as a lawful permanent resident on May 26, 2000, at the age of 12. The applicant claims that she acquired U.S. citizenship from her step-father. The AAO notes that there is no evidence in the record suggesting that the applicant's step-father adopted the applicant or that the applicant otherwise satisfies the requirements of section 1101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1). The Act does not provide for derivation or acquisition of U.S. citizenship through a step-parent. Therefore, the applicant cannot acquire U.S. citizenship from her step-father.

The AAO further notes that the record indicates that the applicant's natural father is Ukrainian. *See Applicant's Birth Certificate.* The record suggests that her mother had filed an Application for Naturalization as of the date of filing of the instant Application for Certificate of Citizenship (August 31, 2005). The record contains an undated note written by the applicant's mother stating that her naturalization application was approved. A copy of the applicant's mother's naturalization certificate is not in the record. USCIS records confirm that the applicant's mother became a naturalized U.S. citizen on May 16, 2006, when the applicant was already 18 years old. The applicant has thus failed to establish that she acquired U.S. citizenship through a U.S. citizen parent prior to reaching the age of 18.

Therefore, the AAO concludes that the applicant is ineligible to acquire or derive citizenship under any provision of the Act, including section 320 of the Act, 8 U.S.C. § 1431.

It is well established that "[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship." *Fedorenko v United States*, 449 U.S. 490, 506 (1981). 8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant in the present case has not met her burden and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.<sup>1</sup>

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<sup>1</sup> The AAO notes that the present decision is without prejudice to the applicant's filing, if eligible, an N-400, Application for Naturalization, pursuant to section 316 of the Act, 8 U.S.C. § 1427.