



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: JUN 26 2007

IN RE:

Applicant:

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.

Glen L. Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director of the Vermont 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 April 8, 1985 in the United Kingdom. His parents, as reflected on his birth certificate, are [REDACTED] and [REDACTED]. The applicant's father, a native of Sierra Leone, became a naturalized U.S. citizen on November 17, 2006, when the applicant was 21 years old. There is no information in the record regarding the applicant's mother. The applicant was admitted to the United States as a visitor on January 28, 1998 as a non-immigrant visitor. The applicant claims that he derived citizenship through his father's current wife, [REDACTED] [REDACTED] became a naturalized U.S. citizen on January 13, 1996.

The director concluded that the applicant was ineligible for citizenship because the Immigration and Nationality Act (the Act) does not provide for derivation of U.S. citizenship through a step-parent and because the applicant was not lawfully admitted for permanent residence.

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 April 8, 2003. His father became a naturalized citizen on November 17, 2006, when the applicant was 21 years old. The applicant's birth certificate indicates that his mother, [REDACTED], is a citizen of the United Kingdom. The AAO notes that there is no evidence in the record suggesting that the applicant's step-mother, [REDACTED] 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 applicant cannot derive U.S. citizenship through his step-mother. The AAO further notes that the applicant was not lawfully admitted for permanent residence. Therefore, the AAO concludes that the applicant is ineligible for derivative 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 his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.