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U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAR 02 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 Mexico on April 8, 1986. The applicant indicated that his father, [REDACTED], became a naturalized U.S. citizen on December 7, 2000, when the applicant was 14 years old. The applicant does not assert, and the record does not reflect, that his mother is a U.S. citizen. The applicant entered the United States as a permanent resident on March 11, 2005, when he was eighteen years old. The applicant seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, claiming that he acquired U.S. citizenship through his father.

The district director concluded that the applicant was ineligible for a certificate of citizenship under section 320 of the Act because he was not residing in the United States pursuant to a lawful admission for permanent residence prior to his eighteenth birthday, as required by section 320(a) of the Act. The application was denied accordingly.

On appeal, the applicant's father states that he naturalized prior to the applicant's eighteenth birthday, and that the application should be approved. *Statement from Applicant's Father*, dated May 9, 2006.

The record contains a statement from the applicant's father; a document from the applicant's mother authorizing the applicant's father to take custody of him; documentation of the applicant's entry to the United States; a copy of the applicant's father's naturalization certificate; a copy of the applicant's birth certificate, and; a copy of a document in which the applicant's father acknowledges paternity of the applicant. The entire record was considered in rendering this decision.

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 under age eighteen on February 27, 2001, he meets the age requirement for benefits under the CCA.

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.

In order to derive citizenship under section 320(a) of the Act, an individual must meet each of the requirements simultaneously. Upon review, the applicant did not simultaneously meet sections 320(a)(2) and 320(a)(3), as he was not "residing in the United States . . . pursuant to a lawful admission for permanent residence" while he was "under the age of eighteen years." As noted above, the applicant did not enter the

United States as a permanent resident until March 11, 2005, after his eighteenth birthday. For this reason, the applicant did not derive citizenship from his father pursuant to section 320(a) of the Act.

The applicant has not established eligibility for a certificate of citizenship under any other section of the Act. For this reason, the application may not be approved.

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 his burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.