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U.S. Citizenship
and Immigration
Services

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FILE:

Office: WASHINGTON, D.C. Date:

MAY 08 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 black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Washington, D.C., 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 11, 1994 in Nigeria. On December 7, 2003, he was admitted to the United States as a lawful permanent resident based on a petition filed by [REDACTED]. [REDACTED] became a naturalized U.S. citizen on June 8, 2004. The applicant's mother, [REDACTED] is not a U.S. citizen. The applicant initially submitted a birth certificate indicating that his parents, described in the document as "Mr. And Mrs. [REDACTED]" were not married. In response to a request for further evidence issued by the CIS district office, the applicant submitted another birth certificate indicating that his parents were [REDACTED] and [REDACTED]. The applicant also provided a marriage certificate documenting that [REDACTED] and [REDACTED] were married on December 10, 1993. The record includes a report from DNA Diagnostics Center indicating that there is a 0% probability that [REDACTED] is the applicant's natural father. The applicant seeks a certificate of citizenship pursuant to sections 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1431, based on the claim that he acquired U.S. citizenship at birth through his father.

The district director concluded that the applicant had failed to establish that [REDACTED] was his biological or adoptive parent. The district director noted the evidence in the record, and some omissions in the applicant's N-600, Application for Certificate of Citizenship. Because the applicant could not establish that he had a U.S. citizen parent as required by section 320 of the Act, the application was denied.

On appeal, [REDACTED], on the applicant's behalf, asserts that he is the applicant's father. The appeal is accompanied by a letter and photographs, but no other supporting documentation. [REDACTED] explains that the first birth certificate submitted was issued by his Church and the second birth certificate was issued by the Nigerian government. He further explains that any omissions relating to his marital history on the N-600, Application for Certificate of Citizenship, was due to a misunderstanding on his part.

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 the age of 18 as of February 27, 2001. Because the applicant was 6 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

101(b)(1).

The record does not contain any evidence to establish that [REDACTED] is the applicant's biological or adoptive parent as required by section 320(a) and (b) of the Act, 8 U.S.C. § 1431. There is no evidence in the record showing that the applicant is the child of a U.S. citizen. Accordingly, the AAO finds that he is not eligible for citizenship pursuant to the section 320 of the Act, 8 U.S.C. § 1431.

The AAO notes “[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. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is “probably true” or “more likely than not.” *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). The applicant in the present case has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.