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U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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MAY 18 2007

FILE:

WAC 06 053 50208

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship under Section 321 of the former Immigration and Nationality Act; 8 U.S.C. § 1432.

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 be "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 sustained.

The record reflects that the applicant was born on August 9, 1982, in Saudi Arabia and is a citizen of Lebanon. The applicant's father was born in Lebanon, and he became a naturalized U.S. citizen on July 26, 1993, when the applicant was ten years old. The applicant's mother is not a U.S. citizen. The applicant's parents were married prior to his birth, but evidence on the record indicates that they divorced in 1988. The applicant presently seeks a certificate of citizenship pursuant to § 321 of the former Immigration and Nationality Act (the former Act), 8 U.S.C. § 1432.

The director erroneously applied the provisions of the Child Citizenship Act of 2000 (CCA), which took effect on February 27, 2001 amending former §§ 320 and 322 of the Act and repealing § 321. The provisions of the CCA are not retroactive, however, and the amended provisions of §§ 320 and 322 of the Act apply only to persons who were not yet eighteen-years-old as of February 27, 2001. Because the applicant was over the age of eighteen on February 27, 2001, he is not eligible for the benefits of § 320 of the amended Act. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). In his circumstances, the provisions of former § 321 govern his eligibility for a certificate of citizenship. The AAO notes that all persons who acquired citizenship automatically under § 321 of the former Act, as previously in force prior to February 27, 2001, may apply for a certificate of citizenship at any time. *See Matter of Rodriguez-Tejedor*, *id.*

Former § 321 of the Act provided, in pertinent part, that:

(a) a child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased;  
or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if-
- (4) Such naturalization takes place while said child is under the age of 18 years;  
and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of 18 years.

The record reflects that the applicant's parents divorced in 1988, and that his father naturalized while the applicant was under the age of eighteen. The evidence also establishes that the applicant has been residing in the United States since 1989, and that he adjusted his status to that of Lawful Permanent Resident (LPR) in 1991, prior to his father's naturalization. Regarding the third provision above, which sets forth the requirement that the

applicant establish that his father held legal custody over him subsequent to the divorce, the applicant submits his parents' divorce decree and a copy of a translation of a local residence registry dated November 15, 1988. Neither of these documents mentions who held custody of the children; however, the record also contains a religious court acknowledgement prepared in 2003 reflecting that the applicant's father held custody over the applicant after the divorce. A review of a variety of sources of information about Lebanese child custody law, including, for example, the educational website <http://www.law.emory.edu/IFL/legal/lebanon.htm> reveals that religious courts for each major sect handle matters of family law. Moreover, the literature indicates that according to Sunni Muslim law, divorced mothers (such as the applicant's mother) lose custody over their male children when the latter reach the age of seven. Thus, the 2003 religious court acknowledgement of the applicant's father's custody of the applicant is acceptable as legal proof of the matter, which is additionally supported by country conditions information. Hence, the evidence establishes all the elements required under former § 321 of the Act, and the applicant is eligible for a certificate of citizenship.

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 has met that burden. Accordingly, the appeal will be sustained.

**ORDER:** The appeal is sustained.