



U.S. Citizenship  
and Immigration  
Services

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identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

[REDACTED]

FILE:

Office: CHICAGO, IL

Date: MAY 23 2007

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Certificate of Citizenship pursuant to 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, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application denied.

The record reflects that the applicant was born in Poland on July 18, 1984. The applicant's father, [REDACTED] was born in Poland, and he became a naturalized U.S. citizen on April 26, 1997, when the applicant was twelve years old. The applicant's mother, [REDACTED], was born in Poland, and she is not a U.S. citizen. The applicant presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant had failed to establish that, prior to his eighteenth birthday, he met all of the requirements for U.S. citizenship, as set forth in section 320 of the Act. The application was denied accordingly.

On appeal the applicant asserts that he entered the United States prior to his eighteenth birthday, and that should not be penalized for U.S. Citizenship and Immigration Services (CIS) delays in admitting him into the United States as a lawful permanent resident.

The AAO notes that the requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress. CIS thus lacks authority to issue a certificate of citizenship if an applicant fails to meet the relevant statutory provisions set forth in the Act. *See Iddir v. INS*, 301 F.3d 492 (7<sup>th</sup> Cir. 2002). The applicant's eligibility for citizenship under the provisions set forth in section 320 of the Act is therefore not affected or changed by CIS processing delays, and the applicant must establish that he fully meets section 320 of the Act requirements in order to obtain a certificate of citizenship.

Section 320 of the Act provides 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 the present matter, the applicant established that his father became a naturalized U.S. citizen prior to his eighteenth birthday. The record additionally contains evidence establishing that the applicant was paroled into the United States on July 4, 2002, prior to his eighteenth birthday, and that he subsequently resided in the U.S. in the legal and physical custody of his U.S. citizen father. The evidence in the record fails, however, to establish that the applicant was admitted into the United States pursuant to a lawful admission for permanent residence, prior to his eighteenth birthday, as required by section 320(a)(3) of the Act. Rather, the record reflects that the applicant's admission into the United States as a lawful permanent resident occurred on July 29, 2002, after he turned eighteen. Accordingly, the applicant failed to establish that he meets all of the requirements for automatic citizenship under section 320 of the Act.

The regulation provides at 8 C.F.R. § 341.2(c), that the burden of proof shall be on the claimant to establish

his or her claimed citizenship by a preponderance of the evidence. The applicant has not met his burden of proof in the present matter. The appeal will therefore be dismissed and the application denied.

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

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<sup>1</sup> The present decision is without prejudice to the applicant's filing a Form N-400, Application for Naturalization pursuant to section 316 of the Act, 8 U.S.C. § 1427, once he becomes eligible to do so.