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**U.S. Citizenship
and Immigration
Services**

EL

FILE:

Office: PHILADELPHIA

Date: MAY 29 2007

IN RE:

Applicant:

APPLICATION: Form N-600 Application for Certificate of Citizenship.

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, Philadelphia, Pennsylvania, 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 Canada on October 17, 1945. The applicant was adopted by her U.S. citizen mother, [REDACTED], and her Canadian father, [REDACTED] on October 17, 1945. The applicant states that the records of her adoption were sealed and she has no documentation of the identities of her biological parents. Thus, the applicant has not asserted, and the evidence of record does not support, that her biological parents were U.S. citizens. The applicant has resided in the United States since 1958, though she has not become a permanent resident. She seeks a certificate of citizenship pursuant to the claim that she derived U.S. citizenship through her adoptive mother.

The district director referenced section 323(a) of the former Act, and indicated that the applicant failed to meet the requirements for a certificate of citizenship due to the fact that she never became a permanent resident in the United States. The application was denied accordingly.

On appeal, the applicant describes the circumstances of her arrival to and residence in the United States. *Statement from Applicant on Appeal*, submitted December 4, 2004. She notes that her three siblings were afforded U.S. citizenship, and she asserts that such fact supports that the present application should be approved. *Id.*

“The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child’s birth.” *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 (9th Cir., 2000) (citations omitted). The applicant in this case was born in Canada in 1945.

The district director cited section 323(a) of the former Act as the controlling law in the present matter. However, section 323(a) of the former Act, now repealed, was a provision that allowed for an adoptive parent to petition for the naturalization of his or her adopted child. Thus, section 323(a) of the former Act allowed an adoptive parent to request that the U.S. government grant citizenship to a child who was not yet a U.S. citizen. Section 323(a) of the former Act. In contrast, a Form N-600, Application for Certificate of Citizenship, constitutes a request for the U.S. government to recognize that the applicant is already a U.S. citizen by operation of law. In order for a Form N-600 application to be approved and a certificate of citizenship to be issued, there must exist, or have existed, underlying U.S. law that conferred citizenship on the applicant prior to the filing of the Form N-600 application. Accordingly, section 323(a) of the former Act is not controlling law in the present matter.

Before 1978, there existed no U.S. law that allowed adopted children to derive citizenship from their adoptive U.S. citizen parent. The applicant reached age 21 on October 17, 1966, and as of that date she no longer met the definition of “child” found in section 101(c)(1) of the Act. Accordingly, the applicant has not established that she became a U.S. citizen by operation of law based on the U.S. citizenship of her adoptive mother.

The applicant notes that her three siblings have been afforded U.S. citizenship based on similar facts. However, the record lacks sufficient evidence for the AAO to determine on what basis her siblings became U.S. citizens. For example, it is not clear whether the applicant’s siblings were also adopted children, or whether they are the biological children of a U.S. citizen.

Further, the applicant must enter evidence into the current record to meet her burden of proof in these proceedings. 8 C.F.R. 341.2(c). She may not rely on the documentation in separate proceedings to establish that she meets the requirements for a certificate of citizenship. 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 her burden. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.