

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

E2

FILE:

Office: NEW YORK, NY

Date: MAY 01 2008

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:

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Form N-600, Application for Certificate of Citizenship (N-600 Application) was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the N-600 application will be approved.

The record reflects that the applicant was born in the Dominican Republic on December 1, 1985. He turned eighteen on December 1, 2003. The applicant's father was born in the Dominican Republic, and he became a naturalized U.S. citizen on April 11, 2003, when the applicant was seventeen years old. The applicant's mother was born in the Dominican Republic, and she did not become a naturalized U.S. citizen prior to the applicant's eighteenth birthday. The applicant's parents married on April 3, 1993, and they remain married. The applicant was admitted into the United States pursuant to a lawful admission for permanent residence on July 24, 2003, when he was seventeen years old. He presently seeks a certificate of citizenship under section 320 of the Act, 8 U.S.C. § 1431, based on the claim that he derived automatic citizenship through his father.

The district director determined that the applicant had failed to establish he resided in the physical custody of his father, as required by section 320(a)(3) of the Act. The N-600 application was denied accordingly.

On appeal the applicant concedes, through counsel, that he presently attends college abroad. The applicant asserts, however, that he lived in the United States in his father's physical custody after his admission into the United States for lawful permanent residence, and prior to his eighteenth birthday. He concludes that he therefore meets the requirements for automatic citizenship under section 320 of the Act.

Section 320(a) of the Act allows a child born outside of the United States to automatically become a citizen of the United States upon fulfillment of the following conditions:

- (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.

Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33), defines the term, "residence" as a person's, "[p]lace of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent."

The record contains the following evidence relating to the applicant's citizenship claim under section 320 of the Act:

A Certificate of Naturalization reflecting that the applicant's father became a naturalized U.S. citizen on April 11, 2003.

The applicant's Dominican Republic passport reflecting that he was admitted into the United States for lawful permanent residence, at New York on July 23, 2003.

The applicant's United States passport, issued on August 20, 2003, reflecting that he entered the Dominican Republic on December 18, 2003.

Letters written by the applicant's mother and father reflecting that the applicant lived with his father and family in New York between July 24, 2003, and a departure to the Dominican Republic on December 18, 2003.

A letter from a family friend confirming that the applicant lived with his father and family in New York between mid-July and mid-December 2003.

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.

Upon review of the evidence, the AAO finds that the applicant has established by a preponderance of the evidence that he satisfied all of the section 320 of the Act requirements prior to his eighteenth birthday. Certificate of Naturalization evidence contained in the record establishes that the applicant's father became a naturalized U.S. citizen when the applicant was seventeen years old. Affidavit evidence as well as the applicant's Dominican Republic and U.S. passport evidence reflects further that the applicant was admitted into the United States for lawful permanent residence when he was seventeen. The evidence additionally reflects that the applicant lived with his father and family in New York for several months prior to his departure from the country, and prior to his eighteenth birthday. The applicant has therefore satisfied all of the section 320 of the Act requirements for automatic vesting of his U.S. citizenship.

Because the applicant met his burden of proof in the present matter, the appeal will be sustained, and the N-600 application will be approved.

**ORDER:** The appeal is sustained. The application is approved.