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

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FILE:

Office: PHOENIX

Date: APR 03 2009

IN RE:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Phoenix, Arizona, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on November 28, 1991 in Argentina. The applicant was adopted by [REDACTED] on August 4, 2007. The applicant's adoptive mother became a U.S. citizen upon her naturalization on May 18, 1996. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that she acquired U.S. citizenship through her adoptive mother.

The district director concluded, in relevant part, that the applicant had not acquired U.S. citizenship pursuant to section 320 of the Act, 8 U.S.C. § 1431, because she had not been admitted as a lawful permanent resident. The director further noted that the applicant had not been in her adoptive mother's legal custody for the two years required by section 101(b)(E)(i) of the Act, 8 U.S.C. § 1101(b)(1)(E). The application was denied accordingly.

On appeal, the applicant's mother states that the applicant derived U.S. citizenship upon her naturalization in 1996. In support of the appeal, the applicant submits a statement signed by her adoptive mother, a medical treatment permission form dated in 2004, a translated document titled "Consent of Adoption" dated in 2002, a Spanish-language document, school records and a copy of her Certificate of Adoption, entered by the Superior Court of Arizona on August 4, 2007.

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 their 18th birthdays as of February 27, 2001. Because the applicant was under 18 years old on February 27, 2001, she 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).

Section 101(b)(1)(E) of the Act states, in pertinent part, that the term "child" means an unmarried person under twenty-one years of age who is-

- (i) [A] child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years. . . .

There is no evidence in the record establishing that the applicant has been admitted for lawful permanent residence. Therefore, she has not acquired U.S. citizenship pursuant to section 320 of the Act, 8 U.S.C. § 1431.<sup>1</sup>

The AAO further notes that the applicant is ineligible to derive U.S. citizenship under section 322 of the Act, 8 U.S.C. § 1433, because she is residing in the United States with her adoptive mother. Section 322 of the Act, 8 U.S.C. § 1433, generally provides for U.S. citizenship for children of U.S. citizens residing abroad.

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). Even courts may not use their equitable powers to grant citizenship, and any doubts concerning citizenship are to be resolved in favor of the United States. *Id.* at 883-84; *see also United States v. Manzi*, 276 U.S. 463, 467 (1928) (stating that "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant"). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect." *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967).

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 is not residing in the United States "pursuant to a lawful admission for permanent residence," as required by section 320 of the Act. The applicant in the present case has not met her burden and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> Having found the applicant ineligible for U.S. citizenship on this basis, the AAO need not address her claim that she has been in her adoptive mother's legal custody for the required two years.