



U.S. Citizenship
and Immigration
Services

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JAN - 2 2009

FILE: [Redacted] Office: NEW YORK Date:

IN RE: Applicant: [Redacted]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:

[Redacted]

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.


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York, 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 February 27, 1996 in Yemen. The applicant's parents are [REDACTED] and [REDACTED]. The applicant's parents were married in Yemen in 1995. The applicant's father acquired U.S. citizenship at birth through a U.S. citizen parent. The applicant was admitted to the United States as a lawful permanent resident on March 9, 2006, when he was ten years old. The applicant presently seeks a certificate of citizenship claiming that he derived U.S. citizenship from his father.

The district director denied the application for lack of prosecution, finding that the applicant had failed to submit requested documents relating to his father's acquisition of U.S. citizenship. On appeal, the applicant, through counsel, contends that the requested documents are irrelevant to the consideration of his citizenship claim or, alternatively, that he should have been afforded more time to respond to the request for evidence.

The Child Citizenship Act of 2000 (CCA), which took effect on February 27, 2001, amended sections 320 and 322 of the Act, 8 U.S.C. §§ 1431 and 1433. 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, he 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.

The record reflects that the applicant was admitted to the United States as a lawful permanent resident in 2006, when he was ten years old. His father is a U.S. citizen, as evidenced by his U.S. passport.¹ He is residing in the United States in the legal and physical custody of his U.S. citizen parent (and lawful permanent resident mother). As such, the applicant automatically acquired U.S. citizenship pursuant to section 320 of the Act, as amended by the CCA, when he was admitted to the United States as a permanent resident on March 9, 2006.

¹ In accordance with *Matter of Villanueva*, 19 I&N Dec. 101 (BIA 1984), a valid U.S. passport constitutes conclusive proof of a person's U.S. citizenship and may not be collaterally attacked.

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 in the present case has met his burden and the appeal will be sustained.

ORDER: The appeal is sustained.