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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

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FILE:

Office: CHICAGO, IL

Date:

JUL 08 2009

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:

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.

John F. Grissom, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born in Finland on August 29, 1997. The applicant's parents, as reflected on her birth certificate, are [REDACTED] and [REDACTED]. The applicant's parents were married in 1993 in Bolivia. The applicant's mother became a U.S. citizen upon her naturalization on March 25, 2008. The applicant's father is a lawful permanent resident of the United States. The applicant's status was adjusted to that of lawful permanent resident of the United States on March 2, 2009. The applicant presently seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that she derived citizenship from her mother.

The field office director concluded that the applicant failed to establish that eligibility for U.S. citizenship under section 320 of the Act, 8 U.S.C. § 1431, because she had not been admitted for lawful permanent residence at the time. The application was denied accordingly.¹

On appeal, the applicant's mother indicates that she was in the process of completing the adjustment of status application on the applicant's behalf.

The Child Citizenship Act of 2000 (CCA), which took effect on February 27, 2001, amended sections 320 and 322 of the Act, and repealed section 321. The CCA benefits all persons who had not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant is under the age of 18, she meets the age requirement for benefits under the CCA.

Section 320 of the Act 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).

¹ The AAO notes that the director's decision was rendered on September 25, 2008, prior to the applicant's adjustment to permanent resident status.

The applicant is currently residing in the United States in her U.S. citizen mother's legal and physical custody "pursuant to a lawful admission for permanent residence" as required by section 320(a)(3) of the Act, 8 U.S.C. § 1431(a)(3). The applicant automatically acquired U.S. citizenship upon her adjustment of status on March 2, 2009.

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. In order to meet this burden, the applicant must submit relevant, probative and credible evidence to establish that the claim is "probably true" or "more likely than not." *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). The applicant in this case has met her burden. The appeal will therefore be sustained.

ORDER: The appeal is sustained.