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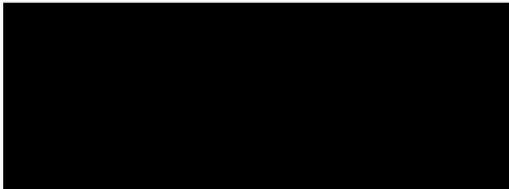
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



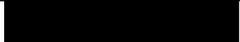
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

JUL 17 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:

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.

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 Acting Center Director, Vermont Service Center. The matter 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 27, 1996 in Ethiopia. The applicant's claimed mother is [REDACTED]. The applicant's baptismal and birth certificates also list his father, [REDACTED]. The applicant's parents never married, therefore, the applicant was born out of wedlock. He was admitted to the United States as a lawful permanent resident on August 12, 2006. The applicant's mother became a U.S. citizen upon her naturalization on April 8, 2004. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Naturalization Act (the Act), 8 U.S.C. § 1431, claiming that he acquired U.S. citizenship through his mother.

The Acting Center Director denied the applicant's citizenship claim finding, in relevant part, that he had failed to establish that [REDACTED] was his mother. The director noted that the applicant had failed to submit the requested results of a Specific Blood Group Antigen Test. Further, he noted that there were discrepancies in the applicant's name date of birth. The application was denied accordingly.

On appeal, the applicant, through his mother, maintains that the discrepancies in his name are a result of the phonetic spelling of his name. With respect to the date of birth discrepancy, the applicant's mother states that the Ethiopian birth certificate was recently acquired by a relative, and contains an erroneous birth date. The applicant submits the laboratory results of blood type and screen tests.

Section 320 of the Act, 8 U.S.C. § 1431, was amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant is under the age of 18, 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.
- (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).

The record in this case establishes that the applicant's claimed mother became a U.S. citizen on April 8, 2004. The AAO further notes that the applicant was admitted to the United States as a lawful permanent resident in 2006, and has been residing in the legal and physical custody of his claimed mother. The question remains whether the applicant has established that [REDACTED] is his mother and, if so, whether or not he was legitimated by his father such that he could acquire U.S. citizenship under section 320 of the Act through his mother alone.

The AAO notes USCIS Policy Memorandum #98, entitled "Eligibility of Children Born out of Wedlock for Derivative Citizenship," issued on September 26, 2003, which provides that "an alien child who was born out of wedlock and has not been legitimated is eligible for derivative citizenship when the mother of such a child becomes a naturalized citizen."

The AAO does not find that the applicant sufficiently established his blood relationship with [REDACTED]. The test results submitted on appeal were not conducted by an authorized laboratory, as noted in the director's denial letter, nor did the applicant submit the results of a Specific Blood Group Antigen Test that established the applicant's blood relationship with his mother. Likewise, the AAO cannot determine whether the applicant was legitimated. In this regard, the AAO notes that the applicant's father's name is listed in his baptismal and birth certificates. There is no indication that Ethiopia requires the marriage of a child's parents in order to consider the child to be legitimate. Indeed, it appears that Ethiopian law provides for equality between legitimate and illegitimate children. The applicant therefore did not acquire U.S. citizenship automatically pursuant to section 320 of the Act, 8 U.S.C. § 1431.¹

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 has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.

¹ This finding does not preclude the applicant from applying for naturalization upon the fulfillment of the requirements in section 316 of the Act, 8 U.S.C. § 1427.