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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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MAY 19 2009

FILE: [REDACTED] Office: HOUSTON Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. § 1420.

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.

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Houston, Texas, 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 September 29, 1990 in Mexico. The applicant's parents are [REDACTED] and [REDACTED]. The applicant's parents were married in 1967. The applicant was admitted to the United States as a lawful permanent resident on August 30, 1999, when he was eight years old. The applicant's father became a U.S. citizen on August 15, 2007, when the applicant was 16 years old. 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 he acquired U.S. citizenship through his father.

The field office director denied the applicant's claim based upon his failure to submit his parents' marriage certificate. The director found, in relevant part, that the applicant could not establish that he had been legitimated by his father absent the certificate. The application was denied accordingly.

On appeal, the applicant contends that he timely submitted his parents' marriage certificate. The appeal is accompanied by a copy of post office records, as well as the marriage certificate.

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, 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.

Section 101(c) of the Act, 8 U.S.C. § 1101(c) states, in pertinent part, that for Title III naturalization and citizenship purposes:

The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere . . . if such legitimation . . . takes place before the child reaches the

age of 16 years . . . and the child is in the legal custody of the legitimating . . . parent or parents at the time of such legitimation.

The record reflects that the applicant's parents were married in 1967. The applicant's 18th birthday was on September 29, 2008. He was admitted to the United States as a lawful permanent resident in 1999, prior to his 18th birthday. Likewise, the applicant's father became a U.S. citizen in 2007, prior to the applicant's 18th birthday. The applicant has thus established that he is a child who prior to his 18th birthday was residing in the United States in the legal and physical custody of his legitimate, U.S. citizen father, pursuant to a lawful admission for permanent residence.

Pursuant to 8 C.F.R. § 341.2(c), 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 met his burden and the appeal will be sustained.

ORDER: The appeal is sustained.