

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



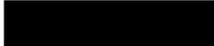
U.S. Citizenship
and Immigration
Services

PUBLIC COPY

E2



FILE:

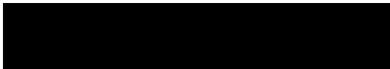


Office: EL PASO, TX Date:

JUL 15 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on January 30, 1994 in Mexico. The applicant was adopted on September 6, 2002 by [REDACTED]. The applicant's adopted parents were married in 1966. They are the applicant's biological grandparents. The applicant's adopted father became a U.S. citizen upon his naturalization on September 1, 1994. The applicant's adopted mother is not a U.S. citizen. The applicant was admitted to the United States as a lawful permanent resident on February 11, 2004. 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 adopted father.

The field office director concluded that the applicant did not acquire U.S. citizenship because she had failed to submit evidence that her adoption was "Plena" under Mexican law, and not "Simple." The application was accordingly denied.

On appeal, the applicant requests an additional 30-45 days in which to submit a copy of a new adoption certificate. See Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO. To date, this office has not received any additional adoption documentation or information from the applicant.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), and took effect on February 27, 2001. The CCA benefits all persons who had not yet reached their eighteenth 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 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) of the Act, 8 U.S.C. § 1101(b)(1), states, in pertinent part, that the term “child” means an unmarried person under twenty-one years of age who is-

(E)(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: Provided, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

...

(F)(i) [A] child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 1151(b) of this title, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents . . . who has been adopted abroad by a United States citizen and spouse jointly . . . or who is coming to the United States for adoption by a United States citizen and spouse jointly . . .

The regulation, at 8 C.F.R. § 320.1, defines “adopted” as “adopted pursuant to a full, final and complete adoption.” The regulations further provide that an adopted child “must meet all of the requirements in [8 C.F.R. § 320.2(a)] as well as satisfy the requirements applicable to adopted children under section 101(b)(1) of the Act.”

The adoption certificate in the record clearly states that the applicant’s adoption was a “simple” adoption voluntarily agreed upon by her natural parents. There is no indication that the rights of her natural parents were extinguished, or that the simple adoption serves as more than a transfer of guardianship. The AAO finds that the applicant has not established that her “simple” adoption constitutes a full, final and complete adoption as is required by the statute and regulations.

“There must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v United States*, 449 U.S. 490, 506 (1981). The applicant bears the burden of proof in these proceedings to establish the claimed citizenship by a preponderance of the evidence. Section 341 of the Act, 8 U.S.C. § 1452; 8 CFR § 320.3(b). The AAO finds that the applicant has not met her burden of proof, and her appeal will be dismissed.

ORDER: The appeal is dismissed.