

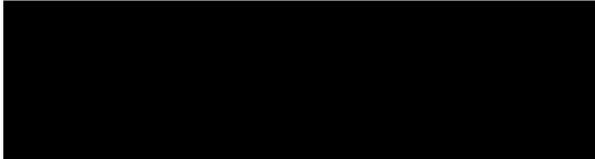
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: MIAMI, FLORIDA (OAKLAND PARK)

Date: JUL 22 2010

IN RE: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under section 322 of the Immigration and Nationality Act; 8 U.S.C. § 1433

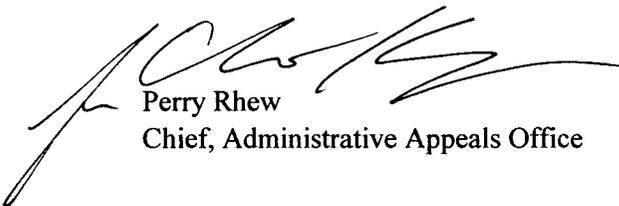
ON BEHALF OF PETITIONER:

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.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Application for Citizenship (N-600K) was denied by the District Director, Miami, Florida and the matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn, the appeal will be sustained, and the matter will be returned to the field office for further action.

The record reflects that the applicant, [REDACTED], became a U.S. citizen by naturalization on December 19, 2000. The beneficiary, [REDACTED] was born on February 23, 1999, in Uganda. On April 6, 2001, a Ugandan district court committed [REDACTED] to the care of the applicant. On June 7, 2006, the High Court of Uganda at Jinja granted the applicant's application for adoption of [REDACTED]. The applicant seeks a certificate of citizenship on behalf of her adopted child pursuant to section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The director determined that the applicant failed to provide sufficient evidence to show that she met the physical presence requirements in section 322 of the Act, and denied the application accordingly. *See Decision of the Director*, dated Sep. 7, 2007. On appeal, the applicant claims that she has satisfied the physical presence requirements set forth in the Act, and she submits additional evidence in support of her claim. *See Form I-290B, Notice of Appeal*, filed Oct. 9, 2007.

The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering this decision on appeal.

Section 322 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), applies to this appeal because the child was not yet 18 years old as of the February 27, 2001 effective date of the CCA. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 156 (BIA 2001) (en banc). Section 322 of the Act provides in pertinent part:

(a) A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

(1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.

(2) The United States citizen parent--

(A) has . . . been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; . . .

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the [citizen parent]

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Upon approval of the application (which may be filed from abroad) and . . . upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Subsections (a) and (b) 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)(E)(i) of the Act, 8 U.S.C. § 1101(b)(1)(E)(i), states that the term "child" includes "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."

Here, the applicant has shown that her adopted child meets the requirements set forth in section 101(b)(1)(E)(i) of the Act. First, the evidence indicates that the applicant adopted [REDACTED] when the child was seven years old. *See Order Granting Adoption*, dated June 7, 2006. Second, the applicant has had legal custody of [REDACTED] since April 6, 2001, a period of time which exceeds two years. *See Care Order*, dated Apr. 6, 2001. Third, [REDACTED] has resided with the applicant since February, 2000, a period of time which exceeds two years. *See Sworn Statement of [REDACTED] of the Mukono Probation Office*, filed in support of the Care Order (indicating that the applicant has cared for the child since February, 2000); *Adoption Ruling*, dated June 7, 2006 (finding that the applicant had fostered the child since the 2001 care order). Accordingly, the applicant may apply for a certificate of citizenship on behalf of Maggie Birabwa pursuant to section 322(a) of the Act. *See* Section 322(c) of the Act.

The applicant contends that she has provided sufficient evidence to show that she has resided in the United States for no less than five years, at least two of which were after her fourteenth birthday on October 30, 1976, as required by section 322(a)(2) of the Act. This contention has merit.

U.S. Citizenship and Immigration Services (USCIS) records indicate that the applicant was born in Colombia on October 30, 1962. She first arrived in the United States on January 5, 1982, and she became a U.S. citizen by naturalization on December 19, 2000. The applicant's claim that she resided in the United States from January 12, 1987, until August 2, 1999, *see Form N-600K*, is supported by the following evidence. First, the applicant's social security records show employment in the United States from 1992 to 1996. *See Itemized Statement of Earnings* (corroborating employment with [REDACTED]). Second, the applicant presented several affidavits from individuals attesting to her work history and residence in the United States. Specifically, a former coworker of the applicant states that she worked with the applicant at Arby's

Corporate Offices in Fort Lauderdale, Florida from 1991 to 1994, and that they were roommates from 1993 to 1995. *See Affidavit of* [REDACTED]. Another former coworker states that she worked with the applicant at Kenny Rogers Roasters Corporate Offices in Fort Lauderdale, Florida from May, 1995 through November 1997. *See Affidavit of* [REDACTED]. Additionally, the applicant's former landlord states that the applicant rented a room from her in Boca Raton, Florida from 1996 to 1999. *See Affidavit of* [REDACTED]. Third, the applicant presented a letter from [REDACTED] in Fort Lauderdale, Florida indicating that she attended the church from 1993 until she departed for Uganda as a missionary in 1999. *See Letter from* [REDACTED] *Missions Ministry*, dated May 11, 2005; *see also Letter from* [REDACTED] *Calvary Chapel Fort Lauderdale*, dated Oct. 3, 2007 (confirming the applicant's missionary work in Uganda). Accordingly, the applicant has shown by a preponderance of the evidence that she resided in the United States for a least five years after her fourteenth birthday.

Additionally, the applicant has established that: (1) she is a U.S. citizen by naturalization, as required by section 322(a)(1) of the Act, *see Certificate of Naturalization for* [REDACTED] dated Dec. 19, 2000; (2) [REDACTED] is under the age of eighteen years, as required by section 322(a)(3) of the Act, *see Birth Certificate for* [REDACTED] and (3) Maggie Birabwa is residing outside of the United States in the legal and physical custody of the applicant, as required by section 322(a)(4), *see Order Granting Adoption; Letter from* [REDACTED] *Calvary Chapel Fort Lauderdale* (indicating that the applicant would be returning to Uganda with her daughters in early 2008); *see also* 8 C.F.R. § 322.1 ("In the case of an adopted child, a determination that a U.S. citizen parent has legal custody will be based on the existence of a final adoption decree.").

Section 322(a)(5) of the Act requires the child to be temporarily present in the United States pursuant to a lawful admission. "[I]n certain circumstances, this evidence may be presented at the time of interview." 8 C.F.R. § 322.3(b)(viii). Here, the record indicates that the applicant and her adopted child were present in the United States when the application was filed, but have since returned to Uganda. *See Letter from Applicant*, dated October 2, 2007 (stating that she and her child were in the United States on furlough but would be returning to Uganda in early 2008); *Letter from* [REDACTED] *Calvary Chapel Fort Lauderdale* (indicating that the applicant would be returning to Uganda with her daughters in early 2008). Accordingly, this matter will be returned to the field office to schedule an interview on the application. Pursuant to 8 C.F.R. § 322.3(a), the applicant may send a written request to the field office noting her preferred interview dates.

The September 7, 2007 decision of the Miami Field Office will be withdrawn and the appeal will be sustained. The record indicates that the application has been transferred to the Oakland Park Field Office. Accordingly, the matter will be returned to that office for further action in accordance with the foregoing decision.

ORDER: The appeal is sustained. The matter is returned to the Oakland Park Field Office to schedule an interview on the application and issue a new decision, which, if adverse to the applicant, shall be certified to the Administrative Appeals Office for review.