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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: [REDACTED] Office: SANTA ANA, CA Date:

JUN 18 2010

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act; 8 U.S.C. §1431

ON BEHALF OF APPLICANT:



**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,

Berry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Santa Ana, California, 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 September 9, 1962 in Pakistan. The applicant was adopted by his aunt and uncle following his parents' death. The applicant was admitted to the United States as a lawful permanent resident on July 29, 1980. His uncle became a U.S. citizen upon his naturalization in 1974. The applicant's eighteenth birthday was in 1979. 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 adopted father.

The field office director concluded that the applicant did not acquire U.S. citizenship because he was not adopted, and therefore not a "child" for citizenship purposes. The director noted that adoptions are not recognized under Pakistani law and that the applicant immigrated as an IR-4, as a child released to the prospective adoptive parent to be adopted in the United States. The application was accordingly denied.

On appeal, the applicant maintains that he was adopted and further states that he must be considered to be a "child" of his uncle because he immigrated to the United States as such. *See* Appeal Brief.

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. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Because the applicant was over the age of 18 on February 27, 2001, he does not meet the age requirement for benefits under the CCA.

Former sections 320, 321 and 322 of the Act, after October 1978, also provided for transmittal of U.S. citizenship to adopted children in some circumstances. *See* 8 U.S.C. §§ 1431, 1432, 1433 (2000). Former section 320 of the Act requires, in relevant part, that both parents be U.S. citizens, former section 321 requires, in relevant part, that both parents naturalize, and former section 322 of the Act requires, in relevant part, the adjudication and approval of the application prior to the child's eighteenth birthday. The applicant cannot establish eligibility for U.S. citizenship under any of these provisions.

Moreover, the applicant cannot establish that he was adopted. The record does not contain an adoption certificate. The AAO further notes that adoptions are not provided for under Pakistani law. The applicant's admission to the United States as an IR-4 does not indicate that he was adopted, or that he fits within the definition of "child" in section 101(c) of the Act, 8 U.S.C. § 1101(c).

The definition of "child" in section 101(c) of the Act is applicable to the citizenship and nationality provisions in Title III of the Act and provides as follows:

...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, and except as otherwise provided in section 320 and 321 of the title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 years . . . and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

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."

Section 101(b)(1)(F)(i) of the Act, 8 U.S.C. § 1101(b)(1)(F)(i), states, in pertinent part, that the term "child" means an unmarried person under twenty-one years of age who is-

[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 . . .

"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 established that he was adopted by a U.S. citizen, or that he otherwise met any of the statutory requirements of the Act for transmission of U.S. citizenship. His appeal will therefore be dismissed.

**ORDER:** The appeal is dismissed.