

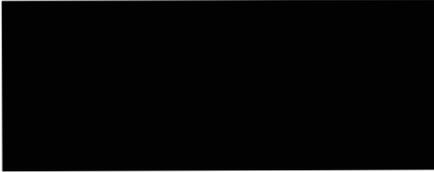
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: DALLAS, TX

Date:

MAY 04 2010

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Dallas, 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 May 14, 1988 in Iran. The applicant's mother, [REDACTED] became a U.S. citizen upon her naturalization on August 18, 2009. The applicant obtained lawful permanent resident status in the United States as of August 27, 2006. The applicant's eighteenth birthday was on May 14, 2006. The applicant presently seeks a certificate of citizenship claiming that she derived U.S. citizenship through her mother.

The field office director, upon finding that the applicant had not established that she had a U.S. citizen parent, concluded that he was ineligible for citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431. The application was accordingly denied.

On appeal, the applicant's mother maintains that she was advised to file the applicant's Form N-600, Application for Certificate of Citizenship, simultaneously with her Form N-400, Application for Naturalization. See Statement of the Applicant's Mother dated August 24, 2009. A copy of the applicant's mother's naturalization certificate was submitted in support of the appeal.

The Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001, amended sections 320 and 322 of the Act, and repealed section 321 of the Act. The provisions of the CCA are not retroactive, and the amended provisions of section 320 and 322 of the Act apply only to persons who were not yet 18 years old as of February 27, 2001. Because the applicant was under the age of 18 on February 27, 2001, she is eligible for the benefits of the amended Act. See *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001).

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.

The record in this case reflects that the applicant's mother became a U.S. citizen in 2009 and that her father is not a U.S. citizen. The applicant was admitted to the United States as a lawful permanent resident as of 2006. The applicant's eighteenth birthday was on May 14, 2006. She was over the

age of 18 when her mother naturalized and when she obtained lawful permanent resident status. Therefore, she did not acquire U.S. citizenship pursuant to section 320 of the Act, 8 U.S.C. § 1431.

It is well established that “[t]here 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 burden of proof in these proceedings is on the claimant to establish the claimed citizenship by a preponderance of the evidence. Section 320 of the Act, 8 U.S.C. § 1431; 8 C.F.R. § 320.2. The applicant is statutorily ineligible to acquire U.S. citizenship through her mother and her appeal will therefore be dismissed.

ORDER: The appeal is dismissed.