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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: SANTA ANA, CA

Date:

MAY 24 2010

IN RE:

Applicant: M

[Redacted]

APPLICATION:

Application for Certificate of Citizenship under Section 301(f) of the Immigration and Nationality Act; 8 U.S.C. § 1401(f)

ON BEHALF OF APPLICANT:

[Redacted]

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 Santa Ana, California Field Office. 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 a certificate of citizenship was denied by the director of the Los Angeles District Office and the Administrative Appeals Office (AAO) dismissed the subsequent appeal. The AAO is now reopening the matter upon its own motion. The prior decision of the AAO will be withdrawn. The case will be remanded to the Santa Ana, California Field Office for issuance of a certificate of citizenship.

On January 28, 2009, the applicant filed a lawsuit in the United States District Court for the Central District of California (*Lumbard v. DHS, et al.*, 09-CV-0107 (C.D. Cal 2009), claiming he was entitled to a certificate of citizenship under section 301(f) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1401(f). Pursuant to the ensuing settlement agreement entered into by the applicant and United States Citizenship and Immigration Services (USCIS), the AAO hereby reopens the administrative proceedings regarding the application for a certificate of citizenship pursuant to the regulation at 8 C.F.R. § 103.5(a)(5)(i).

Section 301 of the Act states, in pertinent part:

The following shall be nationals and citizens of the United States at birth:

...
(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States

In its prior decision, the AAO determined that the applicant had not established that he was of unknown parentage and that the applicant failed to overcome certain evidence indicating that he was born in Canada. In accordance with the settlement agreement the prior decision of the AAO will be withdrawn and the matter will be remanded to the Santa Ana Field Office for issuance of a certificate of citizenship.

ORDER: The August 10, 2007 decision of the Administrative Appeals Office is withdrawn. The matter is remanded to the Santa Ana Field Office for issuance of a certificate of citizenship.