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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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[redacted]

FILE: [redacted] Office: LOS ANGELES, CA Date: OCT 25 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:

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. The fee for a Form I-290B is currently $585, but will increase to $630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the $630 fee. 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, Los Angeles, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on August 11, 1990 in Japan. The applicant was adopted as an adult by [redacted] on June 12, 2009. She was admitted to the United States on a Student (F-1) visa on March 28, 2009. The applicant's adoptive parents became U.S. citizens upon their naturalization in 1972 and 1985, respectively. The applicant's eighteenth birthday was on August 11, 2008. The applicant presently seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The field office director determined that the applicant did not automatically acquire U.S. citizenship through her adoptive parents because she was not adopted prior to the age of 16 and because she had not been admitted as a lawful permanent resident. The application was accordingly denied.

The AAO reviews these proceedings *de novo*. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). On appeal, the applicant's mother notes that the applicant's adoption was approved by the Supreme Court of the State of California. *See* Statement of the Applicant's Mother on Form I-290B, Notice of Appeal to the AAO. She states that she obtained a note from an immigration officer suggesting that a green card was not required for U.S. citizenship. *Id.*; *see also* Note submitted with Appeal.

The applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." *See Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005). The applicant was born in 1990. Therefore, section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), is applicable to her case.

Section 320 of the Act, as amended, 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 . . .
>
> (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 201(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 record shows that the applicant was adopted on June 12, 2009, when she was 18 years old. The applicant therefore cannot establish that she "satisfies the requirements applicable to adopted children" pursuant to section 320(b) of the Act.

Moreover, the applicant has not been admitted to the United States as a lawful permanent resident and therefore did not automatically acquire U.S. citizenship under section 320(a) of the Act. The applicant's mother suggests that an immigration officer indicated, based on the note attached to the appeal, that a "green card" was not required for U.S. citizenship in the case of an "IR-4" classification. "IR-4" is the immigrant visa classification for orphans coming to the United States to be adopted by a U.S. citizen and is not applicable here. The applicant here seeks a certificate of citizenship, not an immigrant visa. Admission as a lawful permanent resident is required to obtain U.S. citizenship under section 320(a) of the Act.

"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 burden of proof is on the applicant to establish her claimed citizenship by a preponderance of the evidence. 8 C.F.R. §§ 320.3(b)(1) and 341.2(c). The applicant has not met her burden of proof, and her appeal will be dismissed.

ORDER: The appeal is dismissed.