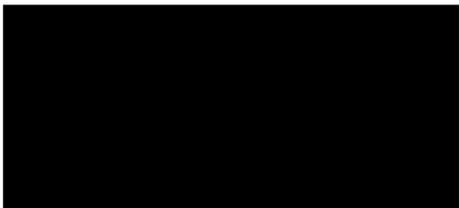


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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**



E2

FILE:



Office: ORLANDO, FLORIDA

Date: FEB 14 2011

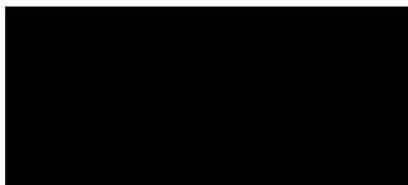
IN RE:



APPLICATION:

Application for Certificate of Citizenship under former section 321 of the Immigration and Nationality Act, 8 U.S.C. § 1432 (1965)

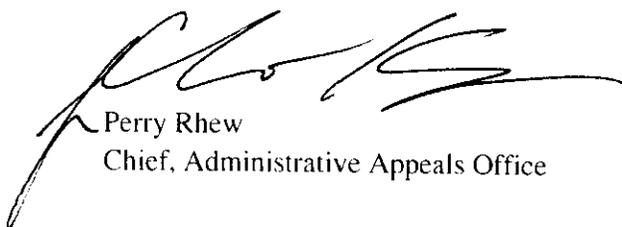
ON BEHALF OF PETITIONER:



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 Certificate of Citizenship (Form N-600) was denied by the Field Office Director, Orlando, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded for entry of a new decision.

The record reflects that the applicant was born in Jamaica on April 12, 1954. The applicant's parents were not married at the time of his birth. The applicant was admitted to the United States as a lawful permanent resident on January 15, 1958. The applicant's mother became a naturalized U.S. citizen on August 31, 1965. The applicant's father was born in Jamaica and is not a U.S. citizen. The applicant seeks a Certificate of Citizenship under former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432 (1965), claiming that he derived citizenship through his mother.

The director determined that the applicant was living in Jamaica at the time his mother naturalized, and that he continued to reside in Jamaica while under the age of 18 years. *See Decision of the Director*, dated February 26, 2008. The application was denied accordingly. *Id.* On appeal, the applicant contends through counsel that the director erred in denying the application without providing the applicant with notice of the derogatory evidence upon which the decision was based and an opportunity to rebut the adverse information. *See Form I-290B, Notice of Appeal*, filed Mar. 27, 2008. This contention has merit.

Pursuant to 8 C.F.R. § 103.2(b)(16), the director must advise the applicant of derogatory information unknown to the applicant. Specifically,

. . . [a]n applicant or petitioner shall be permitted to inspect the record of proceeding which constitutes the basis for the decision, except as provided in the following paragraphs.

(i) Derogatory information unknown to petitioner or applicant. If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered, except as provided in paragraphs (b)(16)(ii), (iii), and (iv) of this section. Any explanation, rebuttal, or information presented by or in behalf of the applicant or petitioner shall be included in the record of proceeding.

(ii) Determination of statutory eligibility. A determination of statutory eligibility shall be based only on information contained in the record of proceeding which is disclosed to the applicant or petitioner, except as provided in paragraph (b)(16)(iv) of this section.

Here, the director relied on information outside of the record of proceedings and the applicant's alien registration file to deny the application. However, the director did not advise the applicant of the existence of the adverse information, or provide the applicant with an opportunity to rebut the information and to present information in support of his claim. Accordingly, the director's decision will be withdrawn and the matter remanded for entry of a new decision issued in accordance with the notice requirements set forth in 8 C.F.R. § 103.2(b)(16). If the applicant is found ineligible for derivative citizenship under former section 321 of the Act, the director shall certify the decision to the AAO for review.

**ORDER:** The director's decision is withdrawn and the matter remanded for entry of a new decision, which if adverse to the applicant, shall be certified to the AAO for review.