

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

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**

E<sub>2</sub>



FILE: [REDACTED] Office: ATLANTA, GEORGIA Date: FEB 14 2011

IN RE: [REDACTED]

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

ON BEHALF OF PETITIONER:

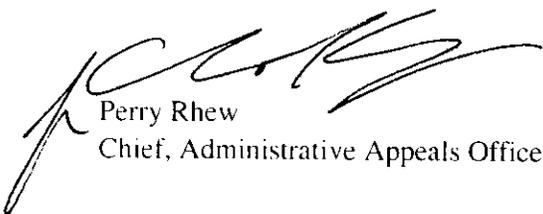
SELF-REPRESENTED

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, with a fee of \$630. 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 Acting Field Office Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Panama on May 12, 1992. On September 20, 2005, the applicant was adopted by U.S. citizen [REDACTED] and his wife, in Muscogee County, Georgia. *See Final Judgment and Decree of Adoption*, filed Sept. 20, 2005. The applicant seeks a Certificate of Citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director determined that the applicant did not meet the requirements for issuance of a certificate of citizenship under section 320 of the Act because he is not a lawful permanent resident of the United States. The application was denied accordingly. On appeal, the applicant's father states that the applicant has been in his physical and legal custody since his 2001 marriage to the applicant's mother, a period of more than two years.

Section 320(a) of the Act applies to children born outside of the United States who are residing permanently in the United States, and provides 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.

Additionally, section 320(a) of the Act "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 320(b) of the Act, 8 U.S.C. § 1431(b).

Section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1), defines the term "child" in relevant part as:

(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 . . .

Here, the applicant meets the definition of a child at section 101(b)(1)(E)(i) of the Act because he was adopted by [REDACTED] when he was 13 years old, and he has been in the legal custody of, and has resided with, [REDACTED] for at least two years. However, the applicant has presented no evidence that he is residing in the United States pursuant to a lawful admission for permanent residence. Rather, the record shows that the applicant was admitted to the United States as a nonimmigrant visitor. Accordingly, he does not meet the requirement set forth in section 320(a)(3) of the Act, and cannot derive citizenship through [REDACTED] under that provision.

The applicant must meet his burden of proof by establishing the claimed citizenship by a preponderance of the evidence. 8 C.F.R. § 320.3. Here, the applicant has not met this burden. Accordingly, the applicant is not eligible for a certificate of citizenship under section 320(a) of the Act, and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.