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

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[redacted]

FILE: [redacted] Office: SAN ANTONIO, TX Date: MAR 07 2011

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:

[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 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 Field Office Director, San Antonio, 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 [redacted] in Peru. She was adopted by [redacted] and [redacted], both native-born U.S. citizens, in 1986. The applicant was admitted to the United States as a lawful permanent resident on July 3, 1987. The applicant's eighteenth birthday was on April 7, 1994. She seeks a certificate of citizenship claiming that she acquired U.S. citizenship through her adoptive parents pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The field office director denied the application upon finding that the applicant was over the age of 18 years when the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), became effective. The director also found that the applicant had not been in her adoptive parents' legal custody for two years prior to her immigration to the United States, as required by the definition of the term "child" for purposes of acquisition of U.S. citizenship under section 320 of the Act, as amended.

On appeal, the applicant, through counsel, maintains that she was in her adoptive parents' legal custody beginning in 1985 for the required two years. *See* Appeal Brief and Applicant's Statement in Form I-290B, Notice of Appeal to the AAO. On appeal, the applicant submits a copy of a court order granting her adoptive parents' her guardianship in 1985.

The AAO reviews these proceedings *de novo*. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Section 320 of the Act, as amended by the CCA, took effect on February 27, 2001. CCA § 104. The CCA only benefits persons who had not yet reached their eighteenth birthdays as of February 27, 2001. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Because the applicant was over the age of 18 years on February 27, 2001, she does not meet the age requirement for benefits under the CCA. Former sections 320, 321 and 322 of the Act, 8 U.S.C. §§ 1431, 1432, and 1433, as in effect prior to February 27, 2001, are therefore applicable to this case.

The applicant did not acquire U.S. citizenship under former sections 320 or 321 of the Act because these sections provided for acquisition of U.S. citizenship upon the naturalization of a parent, not through native-born U.S. citizen parents.

The applicant also fails to qualify for U.S. citizenship under former section 322 of the former Act. Section 322 of the former Act provided, in pertinent part, that:

> (a) A parent who is a citizen of the United States may apply to the Attorney General [now the Secretary, Homeland Security, "Secretary"] for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General [Secretary] shall issue such a

certificate of citizenship upon proof to the satisfaction of the Attorney General [Secretary] that the following conditions have been fulfilled:

(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

(2) The child is physically present in the United States pursuant to a lawful admission.

(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

. . . .

(b) Upon approval of the application . . . [and] upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General [Secretary] with a certificate of citizenship.

Even if the applicant fulfilled the requirements of former section 322(a) of the Act, former section 322(b) of the Act required her to establish that her application for citizenship was approved, and that she took the oath of allegiance, prior to her eighteenth birthday. The applicant did not meet the requirements set forth in former section 322(b) of the Act because she did not apply for a certificate of citizenship before she turned 18, because no such application was approved, and because she did not take the oath of allegiance prior to her eighteenth birthday.

Lastly, the applicant also did not acquire U.S. citizenship at birth pursuant to section 301(a)(7) of the former Act, 8 U.S.C. § 1401(a)(7), because she is not the biological child of a U.S. citizen.[1]

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). The applicant is statutorily ineligible for U.S. citizenship because she was over the age of 18 years when the CCA went into

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[1] Former section 301(a)(7) of the Act, as in effect in 1976, provided that the following shall be nationals and citizens of the United States at birth:

> [A] person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years . . .

effect.[2] She therefore did not acquire U.S. citizenship under section 320 of the Act, as amended, or under any other provision of law. Her appeal will therefore be dismissed.

ORDER: The appeal is dismissed.

[2] In view of the applicant's ineligibility for benefits under the CCA, the AAO does not address her claim that she was in her adoptive parents' legal custody for the required two years.