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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
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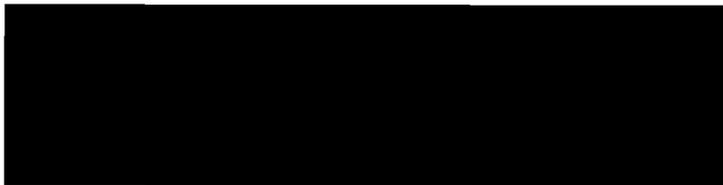
IN RE:

Applicant: 

APPLICATION:

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

ON BEHALF OF APPLICANT:

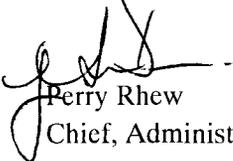


INSTRUCTIONS:

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 District Director, New York, New York, 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 December 2, 1987. He was admitted to the United States as a lawful permanent resident as of January 23, 2006. The applicant's father, [REDACTED] became a U.S. citizen upon his naturalization on August 4, 2005. The applicant's eighteenth birthday was on December 2, 2005. He seeks a certificate of citizenship claiming that he acquired U.S. citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director denied the application upon finding that the applicant obtained lawful permanent residency in the United States after his eighteenth birthday and therefore failed to fulfill the requirements for automatic acquisition of U.S. citizenship under section 320 of the Act, as amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000).

On appeal, the applicant, through counsel, maintains that he was residing in the United States since the age of 14, when he was granted asylee status in accordance with section 208 of the Act, 8 U.S.C. § 1158. See Brief on Appeal at 3. Counsel further claims that the approval of the applicant's adjustment of status application after his eighteenth birthday is irrelevant. *Id.*

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The applicable law for 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 1987. He was under 18 years old on the effective date of the CCA, section 320 of the Act, as amended by the CCA, is therefore applicable to his case.

Section 320 of the Act provides, 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.

The applicant, through counsel, states that he has been residing in the United States since his admission as an asylee. *See* Brief on Appeal at 3. Section 209(b) of the Act, 8 U.S.C. § 1159(b), provides for the adjustment of status to lawful permanent residence for asylees and states, in relevant part, that the date of admission as lawful permanent resident shall be “the date one year before the date of approval of the [adjustment] application.” The applicant’s adjustment application was approved on January 23, 2007, so he is regarded as having been admitted to the United States as a lawful permanent resident as of January 23, 2006. The applicant was already 18 years old on the date he obtained lawful permanent resident status. He therefore did not acquire U.S. citizenship automatically under section 320 of the Act.

The applicant bears the burden of proof in these proceedings to establish the claimed citizenship. Section 341 of the Act, 8 U.S.C. § 1452; 8 C.F.R. § 320.2(a). The applicant has failed to demonstrate his eligibility for citizenship under section 320 or any other provision of the Act. His appeal will therefore be dismissed.

ORDER: The appeal is dismissed.