

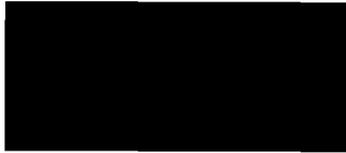
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



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Date: **MAY 26 2011**

Office: HOUSTON, TX

FILE: A

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 Field Office Director, Houston, 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 October 5, 2004 in Mexico. The applicant was adopted by [REDACTED] and [REDACTED] in 2008. The applicant's adopted father was born in the United States on April 7, 1973. The applicant 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 field office director denied the application upon finding that the applicant had not been admitted to the United States as a lawful permanent resident in the United States 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 inspected and admitted to the United States on the basis of an approved Form I-130, Petition for Alien Relative, filed on his behalf by his adoptive parents. *See* Appeal Brief.

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 (9<sup>th</sup> Cir. 2005). The applicant was born in 2004. 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 record does not contain any evidence that the applicant has been admitted to the United States as a lawful permanent resident. An approved Form I-130, Petition for Alien Relative, may be the basis for eligibility for an immigrant visa or adjustment of status, but it is not evidence of lawful permanent residence in the United States. The applicant therefore cannot establish that he is residing in the United States "pursuant to a lawful admission for permanent residence" as is required by section 320(a)(3) of the Act and has not automatically acquired U.S. citizenship.

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.