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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

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Date: NOV 03 2011 Office: PHILADELPHIA, PA File: [redacted]

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 APPLICANT: 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 for Certificate of Citizenship (Form N-600) was denied by the Field Office Director, Philadelphia, Pennsylvania, 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 the Dominican Republic on 1985 to unmarried parents Neither parent was a U.S. citizen at the time of the applicant's birth. On January 12, 1991, the applicant's mother married (the applicant's step-father) in the Dominican Republic. On October 27, 1994, the applicant's step-father became a naturalized U.S. citizen. On October 18, 1996, the applicant's mother was admitted to the United States as a lawful permanent resident; however, she has not since naturalized. On January 24, 2000, the applicant was admitted to the United States as a lawful permanent resident based on a Petition for Alien Relative (Form I-130) filed on his behalf by his step-father. The applicant contends that he derived U.S. citizenship through his step-father who adopted him and 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 the applicant failed to provide evidence that he was legally adopted by his step-father.[1] The application was denied accordingly. On appeal, the applicant contends that the affidavits in the record establish that he was adopted by his step-father.

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:

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[1] The director also denied the application because, although the applicant's biological father is a naturalized U.S. citizen, the applicant did not derive U.S. citizenship through his biological father.

> (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 does not meet the definition of a child at section 101(b)(1)(E)(i) of the Act because there is no evidence to establish that the applicant was adopted by his step-father. The term *adopted* as used in section 320(b) of the Act refers to a full, final and complete adoption. 8 C.F.R. § 320.1. The only evidence that the applicant submits to support his claims that his step-father adopted him are affidavits by the applicant, the applicant's mother and the applicant's step-father. The record contains no evidence that the applicant's step-father obtained a full, final and complete adoption of the applicant in either the Dominican Republic or under the laws of any state in the United States. Accordingly, the applicant does not meet the definition of a "child" set forth in section 101(b)(1)(E)(i) of the Act, and cannot derive citizenship through his step-father under section 320(a) of the Act, as provided for at section 320(b) of the Act as an adopted child.

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 of the Act, and the appeal will be dismissed

ORDER: The appeal is dismissed.