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

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PUBLIC COPY

U.S. Citizenship and Immigration Services

[redacted]

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Date: OCT 18 2011 Office: MIAMI, FL FILE: [redacted]

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:

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant was born on in . The applicant's parents are and . The applicant's parents were married on in and divorced on in . The applicant's mother became a U.S. citizen upon her naturalization on when the applicant was 15 years old. The applicant was admitted to the United States as a lawful permanent resident as of February 7, 1995, when she was three years old. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431, based on the claim that she acquired U.S. citizenship through her mother.

The field office director denied the application upon finding that the applicant had failed to submit the documentation he requested. *See* Decision of the Field Office Director. On appeal, the applicant notes factual mistakes in the director's decision and maintains that she acquired U.S. citizenship through her mother. *See* Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO. The applicant submits a brief, as well as a copy of her mother's naturalization certificate, her parents' marriage certificate and divorce decree, her birth certificate, and her mother's birth certificate.

Section 320 of the Act was amended by the Child Citizenship Act of 2000 (CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), and took effect on February 27, 2001. The CCA benefits all persons who had not yet reached their eighteenth birthdays as of February 27, 2001. Because the applicant was under 18 years old on February 27, 2001, she meets the age requirement for benefits under the CCA.

Section 320 of the Act states, 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.

(b) Subsection (a) 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).

The definition of "child" applicable to the citizenship and nationality provisions in Title III of the Act is contained in section 101(c) of the Act, 8 U.S.C. § 1101(c), and provides as follows:

> ...an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United Sates or elsewhere, and except as otherwise provided in section 320 and 321 of the title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 years . . . and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

The director denied the application because the applicant failed to submit her parents' divorce decree. On appeal, the applicant submits the requested divorce decree, which indicates that upon their divorce, both parents would share parental responsibility, with the applicant's mother being the primary residential parent. As the applicant has overcome the director's stated reasons for denying the petition, and has established her eligibility for a certificate of citizenship under section 320 of the Act, the appeal will be sustained.

ORDER: The appeal is sustained. The matter is returned to the director for issuance of a certificate of citizenship.