

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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



E₂

Date: **FEB 21 2012** Office: SAN JUAN, PR

FILE: 

IN RE: 

APPLICATION: Application for Certificate of Citizenship under former section 321 of the Immigration and Nationality Act; 8 U.S.C. § 1432

ON BEHALF OF APPLICANT:

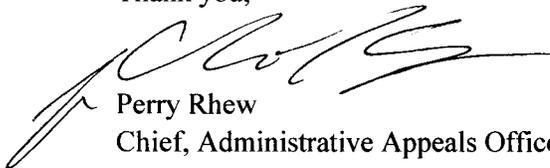


INSTRUCTIONS:

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 Field Office Director, San Juan, Puerto Rico, denied the Application for Certificate of Citizenship (Form N-600) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant seeks a certificate of citizenship pursuant to former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432, based on the claim that she derived U.S. citizenship through her father.

The director determined that the applicant failed to establish eligibility for derivative citizenship under former section 321 of the Act because she was born out-of-wedlock and there was no legal separation between her parents. *See Decision of the Field Office Director*, dated October 27, 2011. The Field Office Director also found that the applicant was not eligible for a certificate of citizenship pursuant to section 322 of the Act, 8 U.S.C. § 1433, because the applicant had already reached her eighteenth birthday. The application was denied accordingly, and the applicant filed a timely appeal.

The immigration regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On appeal, counsel concedes that the applicant has already reached her eighteenth birthday. Counsel concedes that the applicant's father was not married to the applicant's mother and that there was no legal separation between the applicant's father and mother.¹ Counsel fails to identify either on the Form I-290B or through submission of a brief or evidence any erroneous conclusion of law or statement of fact made by the director. The AAO, therefore, will summarily dismiss the appeal.

ORDER: The appeal is summarily dismissed.

¹ Counsel contends that section 321 of the Act is unconstitutional and proceeds to quote, at length, an Amicus Curiae brief written by AILA in removal proceedings against another alien; however, like the Board of Immigration Appeals, the AAO lacks jurisdiction to rule on the constitutionality of the Act and the regulations we administer. *See, e.g., Matter of Fuentes-Campos*, 21 I&N Dec. 905, 912 (BIA 1997); *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992). Even if we were to identify a constitutional infirmity in the statute, we lack the authority to remedy it. *Matter of Fuentes-Campos*, 21 I&N Dec. at 912.