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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

E2



Date: MAR 02 2012 Office: KENDALL, 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, Kendall, 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 October 10, 1998 in Haiti. The applicant was admitted to the United States as a lawful permanent resident on July 3, 1999. The applicant's mother became a U.S. citizen upon her naturalization on May 26, 2004, when the applicant was five years old. The applicant, through her mother, seeks a certificate of citizenship claiming that she 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 finding that the applicant had failed to submit the requested documentation to establish eligibility for U.S. citizenship under section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000).

On appeal, the applicant's mother submits a copy of the applicant's birth certificate, and translation, as well as a copy of her marriage certificate and translation.

The AAO reviews these proceedings *de novo*. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The applicable law for derivative 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 1998. Section 320 of the Act, as amended by the CCA, is therefore applicable to her 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 indicates that the applicant was admitted to the United States as a lawful permanent resident in 1999. Her mother naturalized in 2004, when the applicant was five years old. The applicant's parents were married in Haiti in 1992. The applicant resides with her parents. The record indicates that the applicant's father obtained lawful permanent residence in the United States in 2005.

The AAO finds that the applicant is the child of a U.S. citizen, is under the age of eighteen, and is residing in the United States in her U.S. citizen mother's legal and physical custody. The applicant has therefore established that she acquired U.S. citizenship upon her mother's naturalization.

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 demonstrated her eligibility for U.S. citizenship under section 320 of the Act. Her appeal will therefore be sustained. The matter will be returned to the Kendall Field Office for issuance of the certificate of citizenship.

ORDER: The appeal is sustained. The matter is be returned to the Kendall Field Office for issuance of the certificate of citizenship.