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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

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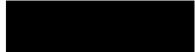
U.S. Citizenship  
and Immigration  
Services



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Date: MAY 11 2012

Office: HOUSTON, TX

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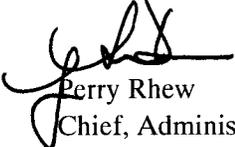
APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431.

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 Field Office Director, Houston, Texas, denied the Application for Certificate of Citizenship (Form N-600) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the appeal will be sustained.

The record reflects that the applicant was born out-of-wedlock in Uganda on [REDACTED] 2001. The applicant was admitted to the United States as a lawful permanent resident on March 27, 2007. The applicant's father became a U.S. citizen by naturalization on [REDACTED] 2011. The applicant's mother is not a U.S. citizen. The applicant's parents have never married. The applicant seeks a certificate of citizenship claiming that he derived U.S. citizenship from his father pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The field office director determined that the applicant failed to establish eligibility for derivative citizenship through his father under section 320 of the Act because he failed to demonstrate that he was legitimated. The field office director denied the application accordingly. *See Decision of the Field Office Director*, dated November 25, 2011. On appeal, the applicant's father contends that Uganda no longer makes a distinction between legitimate and illegitimate children and that he acknowledged paternity of the applicant when his birth was registered. *See Brief*.

The applicable law for derivative citizenship purposes is that in effect at the time the critical events giving rise to eligibility occurred. *Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005); *accord Jordon v. Attorney General*, 424 F.3d 320, 328 (3d Cir. 2005). Section 320 of the Act, as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 (CCA), applies to this case because the applicant was not yet born on February 27, 2001, the effective date of the CCA. *See Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 156 (BIA 2001) (en banc). Section 320(a) of the Act, 8 U.S.C. § 1431(a), provides:

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 regulations define the term "legal custody" to refer to "the responsibility for and authority over a child." 8 C.F.R. § 320.1. Additionally,

For the purpose of the CCA, the Service will presume that a U.S. citizen parent has legal custody of a child, and will recognize that U.S. citizen parent as having lawful authority over the child, absent evidence to the contrary, in the case of . . . [a]

biological child born out of wedlock who has been legitimated and currently resides with the natural parent.

*Id.* Further, for naturalization and citizenship purposes, the term “child” means:

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 States or elsewhere. . . if such legitimation . . . takes place before the child reaches the age of 16 years . . . and the child is in the legal custody of the legitimating . . . parent or parents at the time of such legitimation . . . .

Section 101(c) of the Act, 8 U.S.C. § 1101(c)(1).

Here, the applicant meets all of the requirements set forth in sections 101(c) and 320(a) of the Act. First, the applicant has been residing in the United States pursuant to a lawful admission for permanent residence since March 27, 2007, when the applicant was five years old. Second, the applicant’s father became a citizen of the United States by naturalization on January 18, 2011, when the applicant was nine years old. Fourth, given the evidence of the applicant’s residence with his biological U.S. citizen father in the United States, the applicant meets the legal and physical custody requirements set forth in section 320(a)(3) of the Act and 8 C.F.R. § 320.1 provided he is found to have been legitimated. *See Registration for Classification as Refugee* (indicating the applicant’s intent to reside at his father’s address); *Application to Register Permanent Residence or Adjust Status* (indicating the applicant resided with his father); *Apartment Lease Contract* (reflecting the applicant’s residence with his father). Fifth, the applicant was under the age of 18 years at the time the above-listed qualifying events occurred.

Finally, the applicant meets the definition of a “child” at section 101(c) of the Act because the record shows that his paternity was established in Uganda before his sixteenth birthday. The applicant submitted a copy of his Ugandan Birth Certificate, which shows that the applicant’s father’s name was listed at the time his birth was registered on June 18, 2002. The Uganda Citizenship Act 1962, Part IV, dictating that children are legitimated only through marriage was repealed by the *Uganda Citizenship and Immigration Control Act 1999* [Uganda], Chapter 66, 1999. Ugandan law makes no distinction between children born in and out of wedlock. Uganda enacted the *Children Act, 1997*, Chapter 59 on August 1, 1997, which provides that where the name of the father of a child is entered in the register of births in relation to a child, a certified copy of that entry shall be prima facie evidence that the person named as the father is the father of the child. The *Ugandan Births and Deaths Registration Act 1973*, Chapter 309, states that no person shall be entered in the register as father of the child unless the father consents by signing the register as father of the child or by signing a consent and forwarding it to the registrar of births and deaths registration district in which the child was born. Accordingly, the applicant has established that he was legitimated by his father when he acknowledged paternity in registering his birth. *See Birth Certificate of* [REDACTED]

The applicant bears the burden of proof to establish his eligibility for citizenship under section 320 of the Act. 8 C.F.R. § 320.3. Here, the applicant has established by a preponderance of the evidence that all the conditions for the automatic acquisition of U.S. citizenship pursuant to section 320(a) of

the Act have been met. Accordingly, the decision of the director will be withdrawn, the appeal will be sustained and the matter will be returned to the director for issuance of a certificate of citizenship.

**ORDER:** The appeal is sustained. The matter is returned to the Houston Field Office for issuance of a certificate of citizenship.