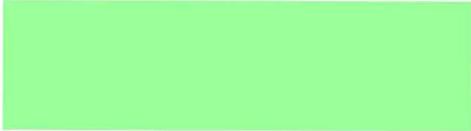




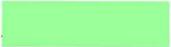
U.S. Citizenship
and Immigration
Services

(b)(6)

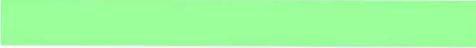


Date: FEB 05 2013

Office: DALLAS, TX

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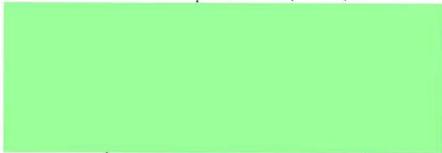
IN RE:

Applicant: 

APPLICATION:

Application for a Certificate of Citizenship under Section 320(a) of the Act,
8 U.S.C. § 1431(a) (2010).

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.


Ron Rosenberg
Acting Chief, Administrative Appeals Office

(b)(6)

DISCUSSION: The application was denied by the Field Office Director, Dallas, Texas, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on October 17, 1992 in Mexico. The applicant's parents, as indicated on her birth certificate, are [REDACTED] and [REDACTED]. The applicant's parents were married in Mexico in 1986. The applicant's father's delayed birth certificate indicates that he was born in Menlo, Washington on [REDACTED]. The record also contains a Mexican birth certificate listing Nuevo Leon, Mexico as the applicant's father's place of birth. The applicant's mother is not a U.S. citizen. The applicant seeks a certificate of citizenship claiming that she acquired U.S. citizenship through her father.

The director denied the applicant's citizenship claim upon finding that she had failed to establish that she was the child of a U.S. citizen as required by section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106-395, 114 Stat. 1631 (Oct. 30, 2000), which took effect on February 27, 2001.¹

On appeal, the applicant, through counsel, maintains that she acquired U.S. citizenship and that she submitted sufficient evidence of her father's U.S. citizenship.

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 1992 and was under the age of 18 when the CCA went into effect. 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.

¹ The applicant does not claim that she acquired U.S. citizenship at birth under section 301(g) of the Act, 8 U.S.C. §1401(g), nor is there any evidence in the record to establish that her father was physically present in the United States for the statutorily required period of time in order to transmit U.S. citizenship at birth to the applicant.

At the outset, the applicant must establish that she is the child of a U.S. citizen. The record contains, in relevant part, a copy of the applicant's father's delayed birth certificate; a copy of the applicant's father's Mexican birth and marriage certificates; a copy of the applicant's and her sibling's Mexican birth certificates; a copy of the applicant's father's baptismal certificate; and an affidavit executed by the applicant's father stating that he was born in Menlo, Washington while his parents were visiting the United States. The applicant's father does not dispute that a Mexican birth certificate exists, but explains that his father registered his birth in Mexico to avoid the possibility of him being drafted into the U.S. Armed Forces. *See* Affidavit of [REDACTED] at ¶ 7. The record also contains a copy of a U.S. passport issued to the applicant's father in 2005. U.S. State Department records indicate that the applicant's father U.S. passport has been destroyed. The AAO finds that the applicant has not established, by a preponderance of the evidence, that her father was born in the United States. Therefore, the applicant did not automatically acquire U.S. citizenship under section 320 of the Act, or any other provision of law.

“There must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v United States*, 449 U.S. 490, 506 (1981). The applicant must meet her 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 and the appeal will be dismissed.

ORDER: The appeal is dismissed.