



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: JAN 31 2013

Office: NEW ORLEANS, LA

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for a Certificate of Citizenship under former Section 322 of the Act,
8 U.S.C. § 1433 (2000).

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.

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

DISCUSSION: The application was denied by the Field Office Director, New Orleans, 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 in Austria on February 26, 1956. The applicant's birth certificate indicates that her father, [REDACTED] acknowledged his paternity on March 2, 1956. The applicant's father was a native-born U.S. citizen who served honorably in the U.S. Armed Forces for over 20 years. The applicant seeks a certificate of citizenship claiming that she derived U.S. citizenship through her father.

Upon finding that the applicant had already reached the age of 18, the field office director denied her Form N600K, Application for Citizenship and Issuance of a Certificate under Section 322. On appeal, the applicant maintains that she acquired U.S. citizenship through her father. See Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO.

Section 322 of the Act, 8 U.S.C. § 1433, 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. CCA § 104. The CCA benefits all persons who had not yet reached their eighteenth birthdays as of February 27, 2001. See *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). The applicant was over the age of 18 years on the CCA's effective date.

Former section 322 of the Act, as in effect prior to the CCA, provided that:

(a) A parent who is a citizen of the United States may apply to the Attorney General [now the Secretary, Homeland Security, "Secretary"] for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General [Secretary] shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General [Secretary] that the following conditions have been fulfilled:

- (1) At least one parent is a citizen of the United States, whether by birth or naturalization.
- (2) The child is physically present in the United States pursuant to a lawful admission.
- (3) The child is under the age of 18 years and in the legal custody of the citizen parent.

(b) Upon approval of the application . . . [and] upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General [Secretary] with a certificate of citizenship.

The AAO notes that, whether or not an applicant satisfied the requirements set forth in former section 322(a) of the Act, she is required to establish that her application for citizenship was approved, and that she took the oath of allegiance, prior to her eighteenth birthday. The applicant in the present case did not meet the requirements set forth in former section 322(b) of the Act because she did not apply for a certificate of citizenship before she turned 18, because no such application was adjudicated or approved, and because she did not take an oath of allegiance prior to her eighteenth birthday.

A person may only obtain citizenship in strict compliance with the statutory requirements imposed by Congress. *INS v. Pangilinan*, 486 U.S. 875, 885 (1988). The applicant is over the age of 18 and thus statutorily ineligible for a certificate of citizenship under section 322 of the Act. Therefore, her Form N600K, Application for Citizenship and Issuance of Certificate under Section 322, was properly denied and her appeal will be dismissed.¹

ORDER: The appeal is dismissed.

¹ The AAO notes that the applicant may have acquired U.S. citizenship at birth as the out of wedlock child of a U.S. citizen pursuant to former section 309 of the Act, 8 U.S.C. § 1409 (1956). A citizenship claim made while an applicant is residing outside the United States may only be made to a U.S. consular officer abroad. An applicant residing in the United States may pursue such a claim by filing a Form N600, Application for Certificate of Citizenship.