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



U.S. Citizenship
and Immigration
Services

Date: JUL 30 2013

Office: PORTLAND, OR

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Portland, Oregon, 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 Somalia. The applicant's immigration file indicates that his date of birth is [REDACTED] 1985. The applicant now claims that he was born on [REDACTED] 1987. The applicant was admitted to the United States as a refugee, and adjusted his status to that of a lawful permanent resident on April 12, 1998. His mother became a U.S. citizen upon her naturalization on [REDACTED] 2003. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship upon his mother's naturalization pursuant to section 320 of the Immigration and Nationality Act (the 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).

The field office director denied the application finding that the record established that the applicant was over the age of 18 when his mother naturalized and therefore ineligible to acquire U.S. citizenship under section 320 of the Act. The field office director evaluated the applicant's claim that he was born on [REDACTED] 1987. After carefully considering the applicant's explanation, the documentary evidence in the applicant's immigration file, the forensic analysis of the applicant's birth certificate, and the applicant's mother's immigration documents, the field office director concluded that the applicant's date of birth was [REDACTED] 1985. The application was accordingly denied.

On appeal, the applicant maintains that he has already submitted the documentary evidence required to establish his case. See Statement of the Applicant on Form I-290B, Notice of Appeal or Motion.

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 under 18 years of age on the effective date of the CCA, February 27, 2001. Thus, section 320 of the Act, as amended by the CCA, is applicable to his 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.

At issue in this case is whether the applicant was under the age of 18 when his mother naturalized.

It is well established that the requirements for citizenship, as set forth in the Act, are statutorily mandated by Congress, and United States Citizenship and Immigration Services (USCIS) lacks statutory authority to issue a certificate of citizenship when an applicant fails to meet the relevant statutory provisions set forth in the Act. 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); *Fedorenko v United States*, 449 U.S. 490, 506 (1981). The applicant must meet his burden of proof by establishing the claimed citizenship by a preponderance of the evidence. 8 C.F.R. § 320.3; see *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967) (stating that "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect"). U.S. "citizenship is a high privilege, and when doubts exist concerning a grant of it ... they should be resolved in favor of the United States and against the claimant." *United States v. Manzi*, 276 U.S. 463, 467 (1928); see also *Pangilinan, supra*, at 883-84.

As noted by the field office director, the record in this case does not establish, by a preponderance of the evidence, that the applicant was born in 1987 as he claims. Rather, since his admission to the United States as a refugee and throughout his immigration process, as well as his mother's immigration and naturalization process, the applicant's date of birth has been listed as [REDACTED] 1985. The explanations and documents submitted by the applicant in support of his claim do not overcome the overwhelming evidence in the record that his birth was in 1985, and not 1987. The AAO must thus find that the applicant has failed to establish that he was under the age of eighteen when his mother naturalized, and therefore did not automatically acquire U.S. citizenship upon her naturalization under section 320 of the Act.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

ORDER: The appeal is dismissed.