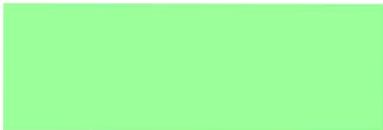


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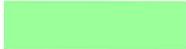


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**

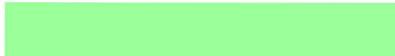


Date: **OCT 31 2013**

Office: HARTFORD, CT

FILE: 

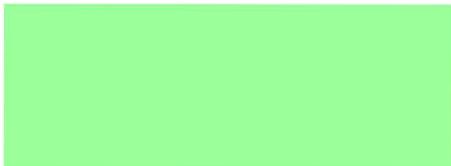
IN RE:

Applicant: 

APPLICATION:

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

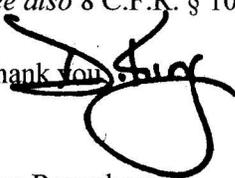
ON BEHALF OF APPLICANT:



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 

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Hartford, Connecticut. The matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed. The applicant now seeks reopening and reconsideration of the AAO's decision. The motion will be granted. The AAO's decision will be affirmed, and the appeal will remain dismissed.

According to the regulation at 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by documentary evidence. The regulations, at 8 C.F.R. § 103.5(a)(3), provide further that a "motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy."

The applicant's motion meets the requirements of a motion to reconsider.

The applicant, through counsel, maintains that the AAO erred in finding that he was not legitimated under either Jamaican or Connecticut law. *See* Appeal Brief. The applicant cites to section 309 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1409. The AAO notes that the applicant's claim arises under section 320 of the Act, 8 U.S.C. § 1431, and not section 309 of the Act, which provides for acquisition of U.S. citizenship at birth. The applicant's father was not a U.S. citizen at the time of the applicant's birth. Section 309 of the Act is inapplicable to this case.¹

On reconsideration, the applicant reiterates his claim that the AAO's interpretation of Jamaican law is incorrect. Counsel again cites an unpublished circuit court of appeals opinion remanding a case back to the Board of Immigration Appeals for reconsideration of its holding in *Matter of Hines*, 24 I&N Dec. 544 (BIA 2008). *See* Appeal Brief (citing *Watson v. Holder*, Docket No. 09-0657 (2d Cir. May 31, 2011)). Counsel alternatively asserts that the applicant was legitimated in accordance with the law of Connecticut, claiming that the section 46b-172 of the Connecticut Code allows for acknowledgement by a father outside of judicial proceedings.

The AAO is bound by the holding in *Matter of Hines*, *supra*, that Jamaican law requires the marriage of the applicant's parents to establish legitimation. The applicant was not legitimated under the law of Jamaica because his parents were never married to each other. Although Connecticut law allows for legitimation by an acknowledgement of paternity in accordance, the pertinent code provisions require a number of formalities, including that the written acknowledgment be accompanied by a waiver and an affirmation by the mother. *See* Section 46b-172 of the Connecticut Code (1993). The applicant was not legitimated under Connecticut law because, although he was acknowledged by his father, the acknowledgment did not include the formalities required under the Connecticut Code.

¹ The applicant correctly notes that section 309 of the Act allows for acquisition of U.S. citizenship on the basis of, among other things, parental acknowledgement. In order to acquire U.S. citizenship under section 320 of the Act, however, an applicant must fit within the definition of "child" found in section 101(a)(c) of the Act, 8 U.S.C. § 1101(a)(c), which specifically requires legitimation and not merely acknowledgement.

(b)(6)

NON-PRECEDENT DECISION

Page 3

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 not been met.

The applicant's motion to reconsider will be granted, but the AAO's February 27, 2013 decision will be affirmed and the appeal will remain dismissed.

ORDER: The motion is granted. The AAO decision is affirmed. The appeal is dismissed.