



U.S. Citizenship
and Immigration
Services

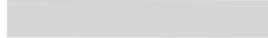
(b)(6)



DATE: **APR 22 2015**

OFFICE: LOS ANGELES

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:

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,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Los Angeles denied the Application for Certificate of Citizenship (Form N-600) 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 [REDACTED] in Japan. The applicant was admitted to the United States on September 2, 2012, with an E1 visa. The applicant's birth mother and father are Japanese citizens. The record indicates that the applicant was adopted by someone other than his birth father on [REDACTED] 2001. The applicant seeks a certificate of citizenship claiming that he acquired U.S. citizenship through his adopted father 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 applicant did not acquire U.S. citizenship because he had not been admitted to the United States as a lawful permanent resident as is required by section 320 of the Act.

The applicant filed a timely appeal, indicating that he would submit a brief or evidence within 30 days of the appeal. No brief or additional evidence was received. Additionally, the applicant did not state on appeal the basis for the appeal.

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 [REDACTED] Section 320 of the Act, as amended by the CCA, is therefore 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.

Section 320(b) of the Act, 8 U.S.C. § 1431(b), provides that the automatic acquisition of U.S. citizenship under section 320(a) of the Act "shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1)." Under section 101(b)(1) of the Act, there are three subsections that apply to adopted children: subsections (E), (F) and (G). In accordance with section 101(b)(1)(E) of the Act, "[t]he term 'child' means an unmarried person under twenty-one years of age who is:

(E)(i) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter; or

(ii) subject to the same proviso as in clause (i), a child who: (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of 18 years;

Here the record does not demonstrate that the applicant has been admitted to the United States for lawful permanent residence. The applicant also has not provided evidence that at least one of his parents is a U.S. citizen. As a result, the applicant has not demonstrated eligibility under section 320(a) of the Act. Moreover, under section 320(b) of the Act, the applicant must show that their adoption satisfies the requirements under section 101(b)(1) of the Act. In this case, the applicant has not provided documentation of his adoptive father's citizenship, nor has he provided documentation of the requisite residence with his adoptive father.

It is the applicant's burden to establish the claimed citizenship by a preponderance of the evidence. Section 341(a) of the Act, 8 U.S.C. § 1452(a); 8 C.F.R. § 341.2(c). Here, that burden has not been met.

ORDER: The appeal is dismissed.