

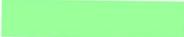


**U.S. Citizenship
and Immigration
Services**

(b)(6)



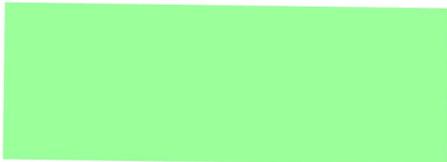
Date: **MAR 18 2015** Office: **BALTIMORE, MD**

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.

Thank you,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director of the Baltimore, Maryland Field Support Office (the director) denied the Application for Certificate of Citizenship (Form N-600). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

Pertinent Facts and Procedural History

The applicant was born in Cameroon on May [REDACTED]. He was adopted on September 3, 2001 in Cameroon by [REDACTED] a U.S. citizen who naturalized on January 18, 2002. The applicant obtained lawful permanent residence on the basis of an approved orphan petition (Form I-600) on August 11, 2003. He now seeks a certificate of citizenship indicating that he acquired U.S. citizenship upon his admission to the United States as a lawful permanent resident 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 director denied the application finding that the applicant was admitted to the United States as a “child to be adopted in the United States,” in the IR-4 category. The director stated that the applicant did not meet the definition of a “child” set forth in section 101(b)(1)(F) of the Act, 8 U.S.C. § 1101(b)(1)(F), because he was required to be re-adopted in the United States upon admission.

On appeal, the applicant maintains that his adoption in Cameroon was full and final, and the consular officer’s IR-4 visa category designation was in error. *See* Appeal Brief.

Applicable Law

We review these proceedings *de novo*. 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 and 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 101(b)(1)(F)(i) of the Act, 8 U.S.C. § 101(b)(1)(F)(i), states, in pertinent part, that the term “child” means an unmarried person under twenty-one years of age who is-

[A] child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 1151(b) of this title, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents . . . who has been adopted abroad by a United States citizen and spouse jointly . . . or who is coming to the United States for adoption by a United States citizen and spouse jointly . . .

The regulation, at 8 C.F.R. § 320.1, defines “adopted” as

adopted pursuant to a full, final and complete adoption. If a foreign adoption of an orphan was not full and final, [or] was defective . . . the child is not considered to have been full, finally and completely adopted and must be readopted in the United States. Readoption requirements may be waived if the state of residence of the United States citizen parent(s) recognizes the foreign adoption as full and final under that state’s adoption laws.

The U.S. Department of State grants the IR-3 visa classification to a child adopted abroad by a U.S. citizen. A child is classified as an IR-4 if he is “coming to be adopted in the United States if he . . . will not be or has not been adopted abroad, or if the unmarried petitioner . . . did not or will not personally see the [child] prior to or during the adoption proceeding abroad, and/or if the adoption abroad will not be, or was not, full and final.” See 8 C.F.R. § 204.3(f). According to the U.S. Department of State, IR-4 visa recipients acquire U.S. citizenship as of the date of a full and final adoption decree in the United States. See 9 FAM 42.21 Notes.

Analysis

In this case, the director denied the application because the applicant’s mother did not complete readoption proceedings after the applicant was admitted to the United States. However, readoption in the state of the parent’s residence is not required in this case. The record contains a Judgment entered by a High Court in Cameroon allowing the applicant’s adoption by [REDACTED]. The applicant’s immigrant visa reflects that he was classified in the IR-4 visa category and admitted as such to the United States. Thus, although the applicant was required to be readopted in the United States upon admission, pursuant to 8 C.F.R. § 320.1, this readoption requirement may be waived if the state of the U.S. citizen parent’s residence recognizes the adoption in Cameroon as full and final under that state’s adoption laws. The law in Maryland, the applicant’s adoptive parent’s state of residence, in effect before the applicant became eighteen years old, provides with respect to foreign adoptions that “an order for adoption . . . entered in compliance with the jurisdiction's laws shall have the same legal effect as an order for adoption . . . entered in this State.” See Md. Code Ann., Family Law § 5-305(c)(1).

The record reflects that the applicant’s adoption in Cameroon was entered in compliance with the jurisdiction’s laws, and that the Petition to Classify Orphan as an Immediate Relative (I-600) was approved pursuant to that adoption. The applicant’s adoption in Cameroon is therefore deemed to be “a full, final and complete adoption” and the applicant automatically acquired U.S. citizenship upon his admission to the United States pursuant to section 320 of the Act.

Conclusion

The burden of establishing eligibility for the application rests entirely with the applicant. *See* section 341 of the Act, 8 U.S.C. § 1452. In this case, the applicant has met his burden and the appeal will be sustained.

ORDER: The appeal is sustained. The matter is returned to the Baltimore Field Office for issuance of a certificate of citizenship.