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



U.S. Citizenship
and Immigration
Services



Date: **MAY 05 2015** Office: ATLANTA FILE: 

IN RE: 

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

ON BEHALF OF PETITIONER:

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
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Field Office Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born in Ethiopia on [REDACTED]. On [REDACTED] the applicant was adopted by U.S. citizens [REDACTED] and [REDACTED] in [REDACTED] Arizona. The applicant seeks a certificate of citizenship pursuant to section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director determined that the applicant did not meet the requirements for issuance of a certificate of citizenship under section 320 of the Act, because he is not a lawful permanent resident of the United States. The application was denied accordingly.

On appeal, the applicant states that he thought he was a U.S. citizen by virtue of his adoption and that his adoptive parents neglected to adjust his status.

The record includes, but is not limited to, documents establishing identity and relationships, school records, and photographs. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 320(a) of the Act applies to children born outside of the United States who are residing permanently in the United States, and provides 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.

In addition, 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).” Section 320(b) of the Act, 8 U.S.C. § 1431(b).

Section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1), defines “child” in relevant part as:

(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

Here, the applicant meets the definition of a child at section 101(b)(1)(E)(i) of the Act, because he was adopted by [REDACTED] when he was six years old, and he has been in the legal custody of, and has resided with, his adoptive parents for at least two years. However, the applicant has presented no evidence that he is residing in the United States pursuant to a lawful admission for permanent residence. Rather, the record shows that the applicant was admitted to the United States as a nonimmigrant visitor for a period of stay limited to six months in 1988. Accordingly, he has not resided in the United States pursuant to a lawful admission for permanent residence, as required under section 320(a)(3) of the Act, and cannot derive citizenship through his adoptive parents under that provision.

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. Here, the applicant has not met this burden. Accordingly, the applicant is not eligible for a certificate of citizenship under section 320(a) of the Act, and the appeal will be dismissed.

ORDER: The appeal is dismissed.