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Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

FILE: [redacted] Office: Los Angeles Date: JUL 11 2003

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:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

SUL1103_01E2320

DISCUSSION: The application was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant was born on May 20, 1986, in Trinidad. The applicant's father is [redacted]. His current nationality is not noted in the record. The applicant's mother, [redacted] was born in Trinidad in February 1957 and became a naturalized U.S. citizen on May 22, 2002. The applicant's parents never married each other. The applicant was lawfully admitted for permanent residence on April 7, 1998. The applicant is seeking a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director reviewed the record and concluded that the applicant had never been legitimated and was therefore, not included in the definition of the term "child" as found in section 101(c) of the Act, 8 U.S.C. § 1101(c). The district director denied the application accordingly.

On appeal, the applicant's mother provides evidence that the applicant was legitimated pursuant to the laws of Trinidad and Tobago on October 1, 1986, when Mushtaq Ahmed Shafi was registered as the applicant's father. The applicant's mother provides a copy of that document for review. She also provides a copy of the Republic of Trinidad and Tobago Status of Children Act which established equal status for children born in or out of wedlock.

Sections 320 and 322 of the Act were amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their 18th birthday as of February 27, 2001. The applicant was 14 years and 9 months old on February 27, 2001. Therefore, he is eligible for the benefits of the CCA.

Stepchildren and children born out of wedlock who have not been legitimated are not included in the definition of the term "child" as used in Title III. Therefore, unless such children are adopted or legitimated, they will not be eligible for benefits under the CCA.

Section 320(a) of the Act, effective on February 27, 2001, provides, in part, that 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.

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(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.

(b) Subsection (a) 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).

The laws of Trinidad and Tobago provide that all children born in or out of wedlock after March 1, 1983, have equal status under the laws of that country and are included within the definition of a legitimate or legitimated "child" as set forth in section 101(b)(1) of the Act if paternity is established, the person is under 21 years of age and the legitimation took place before the child reached the age of 18 years. *See Matter of Patrick*, 19 I&N Dec. 726 (BIA 1988).

8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant has satisfied the requirements of section 320 of the Act and has met that burden. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained. The district director's decision is withdrawn, and the application is approved.