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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: SPOKANE, WASHINGTON Date: FEB 17 2010

IN RE: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under section 322 of the Immigration and Nationality Act; 8 U.S.C. § 1433

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Field Office Director, Spokane, Washington, 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 Canada on June 11, 1991. *See Birth Certificate for [REDACTED]* The applicant's mother was born in Canada on June 15, 1968, and is a U.S. citizen. *See Birth Certificate for [REDACTED] U.S. Passport for [REDACTED]* The applicant's maternal grandmother was born in the United States on January 31, 1935. *Notification of Birth Registration for [REDACTED]* The applicant's parents were married to each other at the time of the applicant's birth. *See Marriage Certificate for [REDACTED] and [REDACTED]* (indicating marriage on July 10, 1988). The applicant seeks a certificate of citizenship pursuant to section 322 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433.

The applicant filed her initial Application for Citizenship and Issuance of Certificate Under Section 322 (Form N-600K) on July 21, 2008. The director requested additional evidence to support the application on July 22, 2008. *See Request for Evidence.* The applicant submitted two affidavits in response to the request for evidence. The director found that the applicant failed to provide sufficient evidence regarding her grandmother's physical presence in the United States, and denied the application accordingly. *See Decision of the Director*, dated Sep. 15, 2008. The applicant filed a second application for citizenship on May 11, 2009. On May 12, 2009, the director mailed a notice to the applicant to appear for an interview on June 2, 2009. *See Form G-56, Interview Notice.* The applicant did not attend the interview, and the interview notice was returned to U.S. Citizenship and Immigration Services as undeliverable on June 17, 2009. The director considered the application for citizenship abandoned, and denied the application accordingly. *See Decision of the Director*, dated June 17, 2009. On appeal, the applicant's mother states that she did not receive the interview notice, and she requests another interview. *See Form I-290B, Notice of Appeal*, filed July 10, 2009.

The AAO reviews these proceedings de novo. *See 5 U.S.C. 557(b)* ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.").

Section 322(a) of the Act, 8 U.S.C. § 1433(a), applies to children born and residing outside of the United States, and provides, in pertinent part, that:

A parent who is a citizen of the United States . . . may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

- (1) At least one parent . . . is a citizen of the United States, whether by birth or naturalization.
- (2) The United States citizen parent--

(A) has . . . been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

(B) has . . . a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

(3) The child is under the age of eighteen years.

(4) The child is residing outside of the United States in the legal and physical custody of the [citizen parent] . . . .

(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

The record reflects that the applicant reached her 18<sup>th</sup> birthday on June 11, 2009. Accordingly, the applicant is statutorily ineligible for a certificate of citizenship because she does not meet the age limitation set forth in section 322(a)(3) of the Act. Because the applicant is statutorily ineligible for a certificate of citizenship pursuant to section 322 of the Act, the AAO finds that it would serve no purpose to determine whether the applicant's grandmother met the physical presence requirements set forth in section 322(a)(2)(B) of the Act.

A person may obtain citizenship only in strict compliance with the statutory requirements imposed by Congress, and the AAO lacks the authority to use equitable powers to issue a certificate of citizenship when an applicant fails to meet the relevant statutory provisions. *See INS v. Pangilinan*, 486 U.S. 875, 883-84 (1988). Moreover, "it has been universally accepted that the burden is on the alien applicant to show his eligibility for citizenship in every respect," and that any doubts concerning citizenship are to be resolved in favor of the United States. *Berenyi v. District Director, INS*, 385 U.S. 630, 637 (1967); *see also* 8 C.F.R. § 341.2(c) ("The burden of proof shall be upon the claimant . . . to establish the claimed citizenship by a preponderance of the evidence."). Because, the applicant has not met her burden of showing that she meets the requirements of section 322(a) of the Act, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.