



U.S. Citizenship
and Immigration
Services

CHRISTOPHER [REDACTED]
[REDACTED]
[REDACTED]

FILE: A [REDACTED] Office: SAN FRANCISCO, CA Date: AUG 3 0 2006

IN RE: Applicant: CHRISTOPHER [REDACTED]

APPLICATION: Application for Certificate of Citizenship pursuant to former Section 320 of the
Immigration and Nationality Act, 8 U.S.C. § 1431

ON BEHALF OF APPLICANT:

ANGELA M. BEAN
110 ELEVENTH STREET
OAKLAND, CA 94607

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.¹

The record reflects that the applicant was born on April 12, 1964 in Manila, The Philippines. The applicant's mother, Angelita [REDACTED] was born in The Philippines on December 4, 1938 to a U.S. citizen mother. The applicant's father, Cecilio [REDACTED] was also born in The Philippines and became a naturalized U.S. citizen on July 1, 1975 when the applicant was 11 years old. The applicant was admitted into the United States as a lawful permanent resident on July 9, 1969, when he was five years old. The applicant seeks a certificate of citizenship pursuant to former section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant was statutorily ineligible for a certificate of citizenship under former section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1433, because the record did not establish that the applicant's mother was a U.S. citizen at the time of her birth or had naturalized prior to the applicant's 18th birthday. The director noted that the applicant's mother had not previously claimed U.S. citizenship and had instead, completed the process of naturalizing in 1996, when the applicant was 32 years old. The application was denied accordingly.

On appeal, the applicant, through his counsel, asserts that his mother did acquire U.S. citizenship at the time of her birth and, therefore, that he automatically acquired U.S. citizenship at the time of his father's naturalization in 1975. Counsel submits birth and marriage certificates for the applicant's parents, grandparents and great grandparents to establish the basis for the applicant's claim.

"The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth." *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 (9th Cir., 2000) (citations omitted). The applicant in the present matter was born in 1964. Former Section 320 of the Act therefore applies to the present case.

Former section 320 of the Act, 8 U.S.C. § 1431 provided that:

- (a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such parent is naturalized, become a citizen of the United States, when
 - (1) such naturalization takes place while such child is under the age of 18 years; and
 - (2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of 18 years.

¹ The AAO notes that the record contains a previously denied Form N-600 and an appeal of that denial, filed on June 29, 2001. It does not appear that the prior appeal was forwarded to the AAO for consideration. Accordingly, the AAO's instant decision covers both of the appeals filed by the petitioner.

In that the record clearly establishes that the naturalization of the applicant's father occurred prior to his 18th birthday and that the applicant resided in the United States as a lawful permanent resident at that time, the issue before the AAO is whether the applicant's mother was a U.S. citizen at the time of his birth in The Philippines.

The applicant's mother was naturalized as a U.S. citizen in 1996, and at no time prior to her naturalization did she claim to be a U.S. citizen by birth. While the AAO takes note of this information, it does not find the naturalization of the applicant's mother to preclude him from establishing eligibility for U.S. citizenship under former section 320 of the Act. The applicant may establish his claim to citizenship if the evidence of record is sufficient to establish that his mother acquired U.S. citizenship at any point prior to his birth.

The record establishes that the applicant's maternal and paternal great grandfathers were U.S. citizens, both born in the United States, specifically the states of Washington and Georgia, and married women in The Philippines. The applicant's grandparents were born in 1917 (grandfather) and 1922 (grandmother) in The Philippines. During this time period, the United States accorded citizenship to the children of U.S. citizen fathers who had at some point prior to their birth resided in the United States. Section 1993 of the Revised Statutes of the United States, 1878. Therefore, both the applicant's grandfather and grandmother acquired U.S. citizenship at birth. Their daughter, the applicant's mother, was born in 1938, also in The Philippines. At the time of her birth, the citizenship and naturalization provisions of the Act of May 24, 1934 conferred citizenship on the children of U.S. citizens who had resided in the United States at any time prior to their birth. No length of residence was specified. As The Philippines was a U.S. possession between April 11, 1899 and July 4, 1946, the residence of the applicant's grandparents in The Philippines is sufficient to satisfy the residency requirements of the Act. *Matter of Y*, 9 I&N Dec. 558 (Reg. Comm. 1962); *Matter of Y*, 7 I&N Dec. 667 (Reg. Comm. 1958). Therefore, the record establishes the applicant's claim. His mother, born to U.S. citizen parents in The Philippines in 1938, acquired U.S. citizenship at birth, even though she was apparently unaware of her status.

As the record reflects that the applicant's mother was a U.S. citizen at the time of his birth in 1964, he has established that he acquired U.S. citizenship under the provisions of former section 320 of the Act, 8 U.S.C. § 1431 upon his father's naturalization in 1975. Accordingly, the appeal is sustained.

ORDER: The appeal is sustained.