



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

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Name: BROWN, PATRICK ANTHONY

A 043-400-049

Date of this notice: 12/18/2012

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

schwarzA
User team: Docket

Immigrant & Refugee Appellate Center | www.irac.net

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Falls Church, Virginia 22041

File: A043 400 049 – New York, NY

Date:

DEC 18 2012

In re: PATRICK ANTHONY BROWN

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Stanley A. Cohen, Esquire

APPLICATION: Reopening

The respondent's motion to reopen is untimely. Sections 240(c)(C)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c)(2). The Board entered the final administrative order in the respondent's proceedings on September 2, 2003, when it dismissed the respondent's appeal. The Board received the current motion to reopen on August 2, 2012. The Department of Homeland Security ("DHS") has not responded to the motion. The motion will be denied.

The respondent does not allege that his motion falls within any of the exceptions to the time and numerical limitations on motions to reopen, but requests that the Board exercise its discretionary authority to reopen his proceedings sua sponte in the interests of justice. 8 C.F.R. § 1003.2(c)(3)(i)-(iv). Specifically, the respondent continues to urge that he derived United States citizenship from his mother. The Immigration Judge found, and the Board subsequently affirmed, that the respondent's derivation claim is controlled by the former section 321(a)(3) of the Act, 8 U.S.C. § 1432(a)(3), which provides that a child born outside of the United States of alien parents becomes a citizen upon the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation.

The respondent asserts that legitimation in Jamaica only occurs by marriage of the parents (*Motion* at 2). However, the respondent cites to no legal authority to support this assertion. Moreover, the respondent was born in Jamaica on August 14, 1979, thus he falls under the Jamaican Status of Children Act of 1976, which provides for legitimation of a child born out of wedlock (*see* I.J. at 5-6). Section 8 (1) of the Jamaican Status of Children Act provides that if the father is listed on the birth certificate that it is prima facie evidence of paternity and thus legitimation (*Id.*). The respondent does not contest that his father's name is listed on his birth certificate (*see Motion* at Tab A; Exh. 5). As such, we are not persuaded that sua sponte reopening of these proceedings is warranted at this late date, particularly as the respondent is not precluded from filing a Certificate of Citizenship (Form N-600) with the United States Citizenship and Immigration Services ("USCIS") or a passport application (Form DS-11) with the Department of State ("DOS") in furtherance of any claim to United States citizenship.

Accordingly, the untimely motion will be denied.

ORDER: The motion is denied.

A handwritten signature in black ink, appearing to be "S. Smith", written over a horizontal line.

FOR THE BOARD