



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**GOULD, TRISTAN NATHANIEL FRANCIS
74046-053/A027-911-731
C/O MOSHANNON VALLEY CI
555 GEO DR
PHILIPSBURG, PA 16866**

**DHS LIT./York Co. Prison/YOR
3400 Concord Road
York, PA 17402**

Name: GOULD, TRISTAN NATHANIEL F... A 027-911-731

Date of this notice: 8/16/2013

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.

schuckec
User team: Docket

Immigrant & Refugee Appellate Center | www.irac.net

Don

Falls Church, Virginia 22041

File: A027 911 731 - York, PA

Date: AUG 16 2013

In re: TRISTAN NATHANIEL FRANCIS GOULD

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: William E. Lore
Senior Attorney

ORDER:

The Board issued a final order of removal in this case on August 19, 2011. We affirmed without opinion an Immigration Judge's decision finding that the respondent is a native and citizen of Trinidad and Tobago who is subject to removal as an aggravated felon. The respondent filed an untimely motion to reopen on July 15, 2013. Section 240(c)(7) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c)(2). The motion to reopen, which is opposed by the Department of Homeland Security (the "DHS"), will be denied.

Even aside from its lateness, the motion would be denied. The basis for the motion is the respondent's claim that he derived United States citizenship through his mother. However, in order to derive United States citizenship through his mother under former section 321(a) of the Act, the mother's naturalization would have had to occur before the respondent turned 18 years old. The respondent's mother became a naturalized United States citizen on March 20, 2008, when the respondent was 21 years old.

The respondent claims that the DHS improperly delayed the adjudication of his mother's naturalization application. He apparently asserts that the Board should therefore deem that her naturalization took place before the respondent turned 18 years old on October 6, 2004. However, "[a] court may not award equitable relief in contravention of the expressed intent of Congress." *Lupera-Espinoza v. Attorney General of U.S.*, 716 F.3d 781, 788 (7th Cir. 2013), citing *INS v. Pangilinan*, 486 U.S. 875, 883-85 (1988) (burden is on alien applicant to show his eligibility for citizenship in every respect); *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153, 164 (BIA 2001); DHS Opp.

The respondent does not meet the statutory requirements for deriving citizenship from his mother, and therefore he does not show that he is a citizen of the United States. The pending motion is, therefore, denied, and the request for a stay of removal is denied as moot.



FOR THE BOARD