



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 35434715

Date: DEC. 19, 2024

Appeal of Washington, DC Field Office Decision

Form N-600, Application for Certificate of Citizenship

The Applicant seeks a Certificate of Citizenship to reflect that he derived U.S. citizenship from his mother under former section 321 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1432.¹

The Director of the Washington, DC Field Office denied the application, concluding that the Applicant did not provide requested evidence and therefore he had not shown that he is eligible for a Certificate of Citizenship under section 320 of the Act, 8 U.S.C. § 1341. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

The record reflects that the Applicant was born in Bolivia in 1978 to foreign national parents. The Applicant does not claim, and the record does not show, that his parents were married to each other. The Applicant was admitted to the United States as a lawful permanent resident in December 1991, and claimed that his mother subsequently naturalized in March 1992, when the Applicant was 13 years old. As there is no evidence that the Applicant's father is a U.S. citizen, the Applicant seeks a Certificate of Citizenship solely through his naturalized U.S. citizen mother.

The Director's Form N-600 denial, citing to section 320 of the Act statutory conditions, states that the Applicant has not shown that he is eligible for a Certificate of Citizenship because he did not provide requested evidence, such as his mother's naturalization certificate, to establish that his mother is a naturalized U.S. citizen, as claimed.

The applicable law for derivative citizenship purposes is "the law in effect at the time the critical events giving rise to eligibility occurred." *See, e.g., Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th

¹ As will be discussed, the Applicant initially sought approval of the application under section 320 of the Act.

Cir. 2005). Here, the Applicant was born and attained 18 years of age when former section 321 of the Act was still in effect. To the extent that the Director concluded that section 320 applies to the Applicant's Form N-600, we withdraw that determination. Section 320 of the Act, as amended by the Child Citizenship Act of 2000 (the CCA), Pub. L. No. 106- 395, 114 Stat. 1631 (Oct. 30, 2000), does not apply to individuals, such as the Applicant, who were over the age of 18 years as of February 27, 2001, the effective date of the CCA. Likewise, former section 320 does not apply here as that provision applies only to individuals born to one U.S. citizen and one noncitizen parent where the noncitizen parent later naturalizes. As stated, the Applicant does not claim that his father is a U.S. citizen.

Generally, former section 321 of the Act conditions apply to an individual born outside of the United States claiming automatic U.S. citizenship after birth and who can meet the last of certain conditions between December 24, 1952 and February 26, 2001. For individuals born to foreign national parents, only one of whom naturalized before the individual turned 18, the individual may automatically become a U.S. citizen if, among other requirements, one of three conditions are met: (1) the non-naturalized parent is deceased; (2) the U.S. citizen parent has custody over the individual after a legal separation or divorce; or (3) the individual was born to unmarried parents and is claiming to be a U.S. citizen through a naturalized mother, and paternity of the individual has not been established by legitimation. Section 321(a)(2)-(3) of the Act.

On appeal, the Applicant now provides a copy of his mother's Certificate of Naturalization, which the Director did not have the opportunity to consider prior to denying the application. Moreover, because the Director did not consider whether the Applicant derived U.S. citizenship through his mother under conditions at former section 321 of the Act, we are returning the matter to the Director to determine in the first instance whether or not the Applicant has satisfied all of the conditions at former section 321 of the Act.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.